

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2003 Legislative Session

Bill No. CB-71-2003

Chapter No. _____

Proposed and Presented by Council Member Dernoga

Introduced by _____

Co-Sponsors _____

Date of Introduction _____

SUBDIVISION BILL

1 AN ACT concerning

2 Subdivisions – Cluster Subdivisions

3 For the purpose of deleting the provisions of the Subdivision Ordinance pertaining to cluster
4 subdivisions.

5 BY repealing and reenacting with amendments:

6 **SUBTITLE 24. SUBDIVISIONS.**

7 Sections 24-104, 24-119, 24-134,
8 24-138.01, and 24-142,

9 The Prince George's County Code
10 (1999 Edition, 2002 Supplement).

11 BY repealing:

12 **SUBTITLE 24. SUBDIVISIONS.**

13 Section 24-137

14 The Prince George's County Code
15 (1999 Edition, 2002 Supplement).

16 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
17 Maryland, that Sections 24-104, 24-119, 24-134, 24-138.01, and 24-142 of the Prince George's
18 County Code be and the same are hereby repealed and reenacted with the following
19 amendments:

20 **SUBTITLE 24. SUBDIVISIONS.**

21 **DIVISION 1. GENERAL PROVISIONS.**

Subdivision 2. General Requirements.

Sec. 24-104. Purposes.

(a) The purposes of this Subtitle are as follows:

* * * * *

(9) To provide for open space through the efficient design and layout of land, [including the use of cluster development,] while preserving the residential densities established in the Zoning Ordinance;

* * * * *

DIVISION 2. APPLICATION PROCEDURES AND DOCUMENTS.

Sec. 24-119. Procedures for major subdivisions.

(a) Optional Approaches. The application procedures for major, [cluster,] Comprehensive Design Zone, and optional residential design approach are the same, except to the extent that Division 6 requires additional information.

* * * * *

(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.]

* * * * *

DIVISION 5. REQUIREMENTS: ENVIRONMENTAL AND PARKS.

Sec. 24-134. Mandatory dedication of parkland.

(a) In all residential subdivisions, except as provided in paragraphs (2), (3), and (4) of this Subsection, the Planning Board shall require the platting and conveyance to the Commission or to a municipality located within the Regional District but not within the Maryland-Washington Metropolitan District, upon request of such municipality, of suitable and adequate land for active or passive recreation, or the payment of a monetary fee in lieu thereof, or the provision of recreational facilities as otherwise provided by this Division.

(1) Amount of Land Required. The amount of land in a subdivision to be dedicated shall be: five percent (5%) of any land on which a density of one (1) to four (4) dwelling units per net acre is permissible; seven and one-half percent (7.5%) of any land on which a density of four (4) to seven and one-half (7.5) dwelling units per net acre is permissible; ten percent (10%) of any land on which a density of seven and one-half (7.5) to twelve (12) dwelling units per net acre is permissible; and fifteen percent (15%) of any land on which a density exceeding twelve (12) dwelling units per net acre is permissible.

(2) Specific Exemptions. The Planning Board may exempt from mandatory dedication requirements any subdivision developed under [cluster,] Comprehensive Design, urban renewal, optional residential design approach, townhouse, or recreational community development provisions, provided that the Planning Board determines that the provisions of Section 24-135 have been satisfied.

* * * * *

DIVISION 6. REQUIREMENTS FOR OPTIONAL APPROACHES.

Sec. 24-138.01. Flag lot development.

(a) Purposes. The flag lot provisions are intended to provide maximum flexibility in subdivision design, to utilize natural features, to enhance energy efficiency, to preserve environmentally sensitive areas, and to create attractively designed communities. The Zoning Ordinance provisions for minimum setbacks, yards, and street frontages for flag lots in the R-E, R-R, and R-80 Zones shall apply. Flag lots created pursuant to this Section are subject to the findings contained in Subsection (f), below. Flag lots permitted in the M-A-C, L-A-C, M-X-C, R-U, R-M, and R-S Zones are subject to the design standards set forth in Subsection (d), below.

1 (b) Procedures. Procedures for preliminary plat and final plat review are the same as for
2 conventional subdivision, except for the additional information required in Subsection (c),
3 below.

4 (c) Additional submittal requirements.

5 (1) The applicant shall submit a statement describing how the proposed flag lot meets
6 the purposes established for the optional residential design approach.

7 (2) A proposed preliminary plat of subdivision that includes a flag lot shall include a
8 sketch plan which shows the proposed general location and orientation of dwellings on the flag
9 lot and adjoining lots, driveway access to streets, and such other features as areas for proposed
10 buffers, conceptual grading, and limits of disturbance on the site. [If the Preliminary Plat of
11 Subdivision is for a cluster development, this information shall be included on the Conceptual
12 Site Plan.]

13 * * * * *

14 **DIVISION 8. FORM GUIDE.**

15 **Sec. 24-142. Purpose.**

16 (a) The following forms shall be acceptable to the Planning Board for the purposes
17 indicated.

18 (1) Dedication forms:

19 (A) Dedication for individuals:

We, _____ and _____, owners of the property shown and described hereon, hereby adopt this plat of subdivision; establish the minimum building restriction lines; and dedicate the streets, alleys, walks, and parks to public use.

There are no suits, actions at law, leases, liens, mortgages, trusts, easements, or rights-of-way affecting the property included in this plat of subdivision, except the following:

and all parties in interest thereto have hereunto affixed their signatures, indicating their assent to this plat of subdivision.

We assent to this plat of subdivision.

Date:

_____ LS _____

Date:

_____ LS _____

(Note: Omit any wording which may not apply. In case the owner is unmarried this fact should be stated.)

(B) Dedication for Corporations (same as foregoing form for individual except as indicated below):

We, _____, a _____ corporation, by _____, President, _____, Secretary, owners of the property, etc.

Date: _____

By: _____

Attest: _____

(2) Surveyor's Certificate:

I hereby certify that the plat shown hereon is correct; that it is a subdivision of _____ the lands conveyed by _____ to _____ by deed dated _____, and recorded in the Land Records of _____ in Liber _____ at Folio _____; and that stones, marked thus: _____, and iron pipe, marked thus o, have been placed as indicated to the approved finished grade.

Signature

Date: _____

(Surveyor)

[(3) Conveyance of Open Space in Cluster:

(Owner(s) Name)

owner(s) of the property shown and designated hereon, hereby dedicate, grant and convey the Open Space Land shown hereon to _____

(appropriate public agency or cooperative association)

Further _____ certify that there are no suits, actions, liens, or

(I or we)

trusts on the property conveyed herein, and warrant generally and specifically the property conveyed to _____

for public

(appropriate public agency or cooperative association)

use and will execute such further assurances as may be requisite.]

1 SECTION 2. BE IT FURTHER ENACTED that Section 24-137of the Prince George's
2 County Code be and the same is hereby repealed:

3 **SUBTITLE 24. SUBDIVISIONS.**

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

5 **Sec. 24-137. [Cluster subdivision] Reserved.**

6 [(a) Purpose. The purpose of cluster development is to permit a procedure for development
7 which will result in improved living environments; promote more economic subdivision layout;
8 encourage a variety of designs of dwellings; encourage ingenuity and originality in total
9 subdivision layout and individual site and building design; encourage compatibility with historic
10 resources; preserve open space to serve recreational, scenic, and public service purposes; and
11 other purposes related thereto, within the densities established for the cluster net tract area. To
12 achieve these purposes:

13 (1) Variations in net lot areas, lot coverages, frontages, and yards are permitted;

14 (2) Procedures are established to assure adequate maintenance and restricted use of
15 open space areas for the benefit of the inhabitants of the subdivisions or for dedication to public
16 use; and

17 (3) Procedures are established to assure protection of existing and potential
18 developments adjoining cluster developments.

19 (b) Dwelling types. All types of attached and detached one-family dwellings may be
20 permitted in a cluster subdivision in the R-80 or R-55 Zone, in accordance with a preliminary
21 plat of subdivision approved prior to September 1, 1986, provided the final plat for such
22 subdivision was approved within the time limits specified in Section 24-119(e). In the R-R
23 Zone, and in the R-80 and R-55 Zones in cluster subdivisions for which the preliminary plat of
24 subdivision was approved on or after September 1, 1986, only one-family detached dwellings are
25 permitted.

26 (c) Size. Cluster developments shall consist of at least sixteen (16) dwelling units, except
27 that cluster developments that are found by the Planning Board to be a logical extension of an
28 existing or approved cluster development may contain fewer dwelling units.

29 (d) Modification of development regulations. Modification of yard, frontage, lot coverage,
30 and net lot area requirements may be permitted by the Planning Board in accordance with the
31 pertinent provisions of the Zoning Ordinance for lots within the interior of the cluster

1 subdivision. These provisions represent the theoretical minimum standards and maximum
2 densities permissible in cluster developments. They will not necessarily be acceptable for all
3 cluster developments, and should not be construed to be authorized as a matter of right. These
4 requirements shall not be modified for lots at entrances to cluster developments, or for lots
5 adjoining existing streets along which the cluster development has frontage, in cluster
6 subdivisions for which the preliminary plat of subdivision was approved on or after September 1,
7 1986, unless a combination of cluster open space and lot areas will result in development that
8 appears to have occurred without approval of modified development regulations. All
9 modifications shall be shown on all subdivision plats, Conceptual Site Plans, and Detailed Site
10 Plans for cluster development.

11 (e) Cluster open space requirements. In each zone allowing cluster development, the net
12 lot area may be reduced from the general net lot area for that zone to a specified minimum net lot
13 area for cluster development, subject to the restrictions in Subsection (d) of this Section. All
14 such reductions shall be compensated for by an equivalent amount of land in cluster open space
15 to be preserved and maintained for its scenic value, for recreational or conservation purposes, or
16 for schools, community buildings, or related uses. Improvements shall be limited to serving such
17 purposes. Up to one-third (1/3) of such net lot area reductions may be located either in a one
18 hundred (100) year floodplain, or on land dedicated for a community building or school site, or
19 for a stormwater management facility that provides scenic or recreational amenities for the
20 community. Cluster open space shall not include areas devoted to streets; nor shall it include any
21 land which has been, or is to be, conveyed to a public agency via a purchase agreement for any
22 of the purposes or uses set forth above in this Subsection.

23 (1) Public Ownership. Cluster open space shall be made available for the use of all
24 residents of Prince George's County, unless the Planning Board finds that the size, location, type
25 of development, cost of development, maintenance of such cluster open space, or the availability
26 of other public open space, would make public use undesirable or unnecessary. The Planning
27 Board, shall require dedication of all areas indicated for acquisition in the approved Capital
28 Improvement Program, as authorized by the Regional District Act.

29 (2) Private Ownership. If cluster open space is not dedicated to public use, it shall be
30 protected by legal arrangements, satisfactory to the Planning Board, sufficient to assure its
31 maintenance and preservation for whatever purpose it is intended. Covenants or other legal

1 arrangements shall specify ownership of the cluster open space; method of maintenance,
2 responsibility for maintenance, maintenance taxes, and insurance; compulsory membership and
3 compulsory assessment provisions; guarantees that any association formed to own and maintain
4 cluster open space will not be dissolved without the consent of the Planning Board; and any other
5 specifications deemed necessary by the Planning Board.

6 (f) Subdivision plats; site plans; other submittal requirements. In addition to the
7 information otherwise required, the preliminary and final plats for cluster development shall
8 include the location and dimensions of yards. An application for preliminary subdivision plat
9 approval shall be accompanied by a Conceptual Site Plan, which shall include proposed street
10 grades. The conceptual site plan shall also include proposed rough grading which would
11 significantly alter the existing topography of the site. The applicant shall obtain approval of a
12 Detailed Site Plan and architectural drawings (consisting of exterior elevations, exterior finish
13 materials and floor plans) from the Planning Board, in accordance with Part 3, Division 9,
14 Subdivision 3, of the Zoning Ordinance, prior to the issuance of any building or use and
15 occupancy permit. Approved street profiles shall be shown on the Detailed Site Plan. The
16 Planning Board may require any additional information it deems necessary to consider the
17 proposal with respect to the criteria for approval. Approval of the architectural drawings shall be
18 for purpose of eliminating monotony of planned front elevations; assuring that nonstandard
19 exterior finish materials (such as cinder blocks) are not used; and encouraging a variety of
20 architectural styling and floor plans. Once approved, the Conceptual and Detailed Site Plans,
21 architectural drawings, and any other approved documents shall govern development of the
22 property as a cluster subdivision. Failure to develop in accordance with these documents shall be
23 cause for denial or revocation of grading, building, and use and occupancy permits.

24 (g) Criteria for approval. An approved cluster development shall, through creative design
25 and a variety of one-family detached dwelling styles, provide for a total environment better than
26 that which would normally be achieved under standard regulations. If, in the opinion of the
27 Planning Board, the proposed preliminary plat of subdivision, Conceptual Site Plan, Detailed
28 Site Plan, or architectural drawings could be improved with respect to the criteria listed below by
29 the reasonable modification of the purpose, configuration, location, or design of cluster open
30 space or buildings, or the location or configuration of lots, streets, parking areas, or other
31 features of the development, the proposed preliminary plat of subdivision, Conceptual Site Plan,

1 Detailed Site Plan, or architectural drawings shall be so modified or disapproved. In approving a
2 proposal, the Planning Board shall find that the following criteria have been met, as applicable to
3 the particular plat or plan under consideration:

4 (1) Individual lots, buildings, streets, and parking areas will be designed and situated
5 in conformance with the provisions for woodland conservation and tree preservation set forth in
6 Subtitle 25 of the Prince George's County Code, and in order to minimize alteration of the
7 historic resource or natural site features to be preserved.

8 (2) Cluster open space intended for a recreational or public use, conservation
9 purposes, or as a buffer for a historic resource is appropriate, given its size, shape, topography,
10 and location, and is suitable for the particular purpose it is to serve on the site.

11 (3) Cluster open space will include irreplaceable natural features located on the tract
12 (such as, but not limited to, stream beds, significant stands of trees, steep slopes, individual trees
13 of significant size, and rock outcroppings).

14 (4) Cluster open space intended for a recreational or public use will be easily
15 accessible to pedestrians; and the means of access will meet the needs of the physically
16 handicapped and elderly.

17 (5) Cluster open space intended for scenic value will achieve this purpose through the
18 retention of those irreplaceable natural features described in paragraph (3) above; or where such
19 natural features do not exist, such techniques as berms planted with trees and the use of
20 landscaping materials may be required to eliminate visual monotony of the landscape.

21 (6) Diversity and originality in lot layout and individual building design, orientation,
22 and location will achieve the best possible relationship between development and the land.

23 (7) Individual lots, buildings, parking areas, and streets will be arranged, designed,
24 situated, and oriented, so as to harmoniously relate to surrounding properties, to improve the
25 view from dwellings, and to lessen the area devoted to motor vehicle access and circulation.

26 (8) Individual lots, buildings, parking areas, and streets will be so situated and
27 oriented as to avoid the adverse effects of shadows, noise, and traffic on, and afford privacy to,
28 the residents of the site.

29 (9) Not more than one-fourth (1/4) of any land having slopes greater than twenty-five
30 percent (25%) will be removed or altered, and then only when such slopes are isolated, small, or

1 otherwise occur as insignificant knolls, so that the design of the development or cluster open
2 space will not be adversely affected.

3 (10) Appropriate landscaped screening techniques will be employed at each entrance
4 to the subdivision and along adjoining existing streets, so as to assure the compatibility of the
5 appearance of the cluster subdivision with that of surrounding existing and planned residential
6 development not approved for cluster development, and to provide an attractive appearance from
7 streets. Individual lots shall also be appropriately landscaped in such a manner as to provide an
8 attractive appearance.

9 (11) If flag lots are proposed within the cluster subdivision, the requirements of
10 Section 24-138.1, as well as those of the Zoning Ordinance relating to flag lots, will be met.

11 (12) If zero lot line development is proposed within the cluster subdivision, the
12 requirements of Section 24-138, as well as those of the Zoning Ordinance relating to zero lot line
13 development, will be met.

14 (13) All dwellings and other buildings will be served by public water and sewerage.

15 (h) Amendment and withdrawal of preliminary plat or site plan. An approved preliminary
16 plat for cluster development may be amended upon petition by the applicant for the subdivision
17 or by a subsequent owner prior to final plat approval. An approved preliminary plat may be
18 withdrawn at any time before final plat approval. An approved Conceptual Site Plan or Detailed
19 Site Plan may be amended in accordance with Section 27-289 of the Zoning Ordinance.
20 Approved architectural drawings may be amended upon submission to the Planning Board's
21 designee when such amendment will not adversely affect the stated purposes for original
22 approval of such drawings. When the Planning Board's designee finds that the proposed
23 amendment will not achieve the stated purposes for approval of such drawings, the architectural
24 drawings may only be amended in accordance with Section 27-289 of the Zoning Ordinance.

25 (i) Record plat notations. A statement shall be included on the record plat indicating that
26 the property is approved for cluster development. In addition, a statement of conveyance of
27 cluster open space land to a public agency or cooperative association shall be placed on the plat,
28 if appropriate, in the format shown in Division 8. The plat shall also contain a notation advising
29 prospective purchasers that a Conceptual Site Plan governs development within the subdivision,
30 and that Detailed Site Plan and architectural drawing approval is required prior to the issuance of
31 any permits for grading, development, or use of the property.

1 (j) Appeal of Board actions. Planning Board action on a preliminary subdivision plat for
2 cluster development may be appealed to the District Council by the applicant or by any party of
3 record as of the date of the hearing. The Planning Board shall give notice of its decision by
4 sending a copy to each party of record by first-class mail, postage prepaid. The appeal shall be
5 filed with the Clerk of the Council within thirty (30) days following notice of action on the
6 cluster proposal by the Planning Board to all parties of record at the hearing thereon. The appeal
7 shall be based upon the record as made before the Planning Board, and shall set forth the reasons
8 for the appeal. Planning Board action on a Conceptual Site Plan, Detailed Site Plan, or
9 architectural drawing for cluster development may be appealed to the District Council in
10 accordance with Section 27-290 of the Zoning Ordinance. In deciding an appeal of a Planning
11 Board action, the Council shall exercise original jurisdiction. For any such appeal, the Council
12 may, based on the record, approve, approve with conditions, remand, or deny the subdivision
13 plat.]

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

Adopted this ____ day of _____, 2003.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Peter A. Shapiro
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.