

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND****1997 Legislative Session**Bill No. CB-45-1997Chapter No. 33Proposed and Presented by The Chairman (by request - County Executive)Introduced by Council Members Bailey and Estep

Co-Sponsors

Date of Introduction May 13, 1997**SUBDIVISION BILL**

AN ACT concerning

Development in Certain Residential and R-M Comprehensive Design Zones  
and the Mixed Use Transportation Zone

For the purpose of providing specific requirements for the development of Certain Residential  
and R-M Comprehensive Design Zone property when developed in conjunction with Mixed  
Use Transportation Zone property.

BY repealing and reenacting with amendments:

**SUBTITLE 24. SUBDIVISIONS.**

Sections 24-121, 24-124, 24-128, 24-132, 24-134,  
and 24-135,

The Prince George's County Code  
(1995 Edition, 1996 Supplement).

**SECTION 1.** BE IT ENACTED by the County Council of Prince George's County,  
Maryland, that Sections 24-121, 24-124, 24-128, 24-132, 24-134, and 24-135 of the Prince  
George's County Code be and the same are hereby repealed and reenacted with the following  
amendments:

**SUBTITLE 24. SUBDIVISIONS.****DIVISION 3. REQUIREMENTS: PLANNING, DESIGN, AND PUBLIC FACILITIES.****Sec. 24-121. Planning and design requirements.**

(a) The Planning Board shall require that proposed subdivisions conform to the

following:

\* \* \* \* \*

(16) Except as indicated in Section 24-132, [T]he subdivision shall be designed and platted in accordance with the provisions for woodland conservation and tree preservation contained in Subtitle 25.

\* \* \* \* \*

#### **DIVISION 4. REQUIREMENTS: TRANSPORTATION AND CIRCULATION.**

##### **Sec. 24-124. Adequate roads required.**

(a) Before any preliminary plat may be approved, the Planning Board shall find that:

\* \* \* \* \*

(5) Roadway improvements participated in by the subdivider will alleviate any inadequacy as defined by the "Guidelines." Such participation shall be limited to improvements defined in paragraph (4), above, and with sufficient surplus capacity to adequately accommodate the subdivider's proposed traffic impact. The amount and timing of the subdivider's participation shall be determined by the Planning Board as defined in the "Guidelines;" [or]

(6) Consideration of certain mitigating actions is appropriate as defined in the approved "Guidelines for Mitigation Actions," and as provided below:

(A) Projected traffic service in the study area, which shall be based on existing traffic, traffic generated by other approved development, and growth in through traffic as defined in the "Guidelines," is calculated to be greater than the acceptable level of service; and

(B) The provisions for adequate roads, as described in Subparagraph (a)(1), above, are not met.

(i) Where projected traffic service is calculated to be greater than or equal to twenty-five percent (25%) above, the acceptable peak-hour service level threshold as defined in the "Guidelines," the Planning Board may require that any physical improvement or trip reduction programs participated in, or funded by, the subdivider or his heirs, successors, and assigns shall fully abate the impact of all traffic generated by the proposed subdivision in

the study area. Following the development of the proposed subdivision and implementation of the approved mitigation action, the total traffic service will be reduced to no higher than twenty-five percent (25%) above the acceptable peak-hour service level threshold as defined in the "Guidelines" (total traffic service shall be based on projected traffic and traffic generated by the proposed development); or

(ii) Where projected traffic service is calculated to be greater than but less than twenty-five percent (25%) above the acceptable peak-hour service level threshold as defined in the "Guidelines," the Planning Board may require that any physical improvements or trip reduction programs fully funded by the subdivider or his heirs, successors, and assigns shall fully abate the impact of one hundred and fifty percent (150%) of all traffic generated by the proposed subdivision in the study area. Following the development of the proposed subdivision and implementation of the mitigation action, the total traffic service within the study area will be reduced to no lower than the acceptable peak-hour service level threshold defined in the "Guidelines"; or

(C) Where existing traffic service in the service area is at the acceptable peak-hour service level threshold or better, as defined in the "Guidelines," and if the total traffic service in the study area is no greater than ten percent (10%) above the acceptable peak-hour service level threshold as defined in the "Guidelines" and the proposed subdivision generates less than twenty-five (25) A.M. or P.M. peak-hour trips, the Planning Board may require that the subdivider or his heirs, successors, and assigns shall be responsible for the pro rata cost of the physical improvements necessary to alleviate the inadequacy as defined in the "Guidelines."

(D) Planning Board action on a mitigation action may be appealed to the District Council by the applicant or by any party of record. The appeal shall be filed with the Clerk of the Council within thirty (30) days following notice of action on the mitigation proposal by the Planning Board to all parties of record. The appeal shall be based upon the record as made before the Planning Board and shall set forth the reasons for the appeal. In deciding an appeal of a mitigation action, the Council shall exercise original jurisdiction. For

any such appeal, the Council may, based on the record, approve, approve with conditions, remand, or deny the mitigation action.

(b) The Surplus Capacity Reimbursement Procedure shall be adopted by the Planning Board by resolution, at a regularly scheduled public meeting. Any transportation facility improvements that qualify for a Surplus Capacity Reimbursement Procedure are eligible for pro rata share contributions from all subsequent subdividers which the Planning Board determines will need the available surplus capacity to meet the requirements of this Section. The pro rata share contributions shall be indexed to account for changes in the estimated cost to complete the roadway improvements, using a cost index acceptable to the appropriate public agency. Within fifteen (15) calendar days after adoption of a Surplus Capacity Reimbursement Procedure, the Planning Board or its designee shall transmit to the County its adopted resolution and findings as to the portion of the total Surplus Capacity Reimbursement improvements cost which qualifies for prorated share contributions. Copies of the Planning Board resolution and the minutes of the Planning Board hearing shall be available for public inspection. Once the Planning Board determines that surplus capacity created by the Surplus Capacity Reimbursement improvements does not exist, the improvements no longer qualify for pro rata share contributions from subsequent subdividers. The Planning Board shall then transmit to the County a resolution closing the Surplus Capacity Reimbursement[.]; or

(7) There is a proposal for such roads on a plan being considered by the United States Department of Transportation and/or Federal Highway Administration, and which is funded for construction within the next ten years. The Planning Board may condition the approval of the subdivision on a construction schedule that minimizes any inadequacy.

**Sec. 24-128. Private roads and easements.**

\* \* \* \* \*

(b) The Planning Board may approve plats and plans of development containing private roads, rights-of-way, and/or easements under the following conditions:

\* \* \* \* \*

(13) Notwithstanding any provision of this Code to the contrary, the Planning Board

may approve a system of public roads, private roads, rights-of-way, and/or easements for a subdivision, with land in any Residential Zone and/or the R-M Zone, provided a portion of the land is zoned M-X-T and all of the land is the subject of the same approved Conceptual Site Plan. In such cases, the Applicant shall present the Planning Board with sufficient assurances regarding the perpetual maintenance of the non-public roads. Prior to action by the Planning Board, the Department of Public Works and Transportation shall approve the conceptual design and widths of the non-public roads and conceptual connections to public roads.

\* \* \* \* \*

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

### **Sec. 24-132. Woodland conservation, tree preservation, clearing, replacement.**

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

\* \* \* \* \*

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

### **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.

(3) Other Exemptions. Mandatory dedication shall not apply to:

\* \* \* \* \*

(E) Any development comprised of lands zoned Residential, R-M, and M-X-T, for which there is an approved single Conceptual Site Plan applicable to all of the properties.

\* \* \* \* \*

**Sec. 24-135. Fee in lieu and recreational facilities.**

\* \* \* \* \*

(c) The provisions of this Section shall not apply to any development comprised of lands zoned Residential, R-M, and M-X-T, for which there is an approved single Conceptual Site Plan applicable to all of the properties.

SECTION 2. BE IT FURTHER ENACTED that this Act shall take effect thirty (30) calendar days from the date it becomes law.

Adopted this 1st day of July, 1997.

COUNTY COUNCIL OF PRINCE  
GEORGE'S COUNTY, MARYLAND

BY:  
Dorothy F. Bailey  
Chair

ATTEST:

Joyce T. Sweeney  
Clerk of the Council

APPROVED:

DATE: \_\_\_\_\_

BY:  
Wayne K. Curry  
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.