

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**2012 Legislative Session**Bill No. CB-104-2012Chapter No. 90Proposed and Presented by The Chair (by request – Planning Board)Introduced by Council Member Franklin

Co-Sponsors _____

Date of Introduction October 9, 2012**SUBDIVISION BILL**

1 AN ACT concerning

2 Sustainable Growth Tier

3 For the purpose of incorporating Section 9-206 of the Environment Article of the Annotated
4 Code of Maryland and making changes to the subdivision regulations.

5 BY repealing and reenacting with amendments:

6 **SUBTITLE 24. SUBDIVISIONS.**7 Sections 24-101, 24-103, 24-105, 24-107, 24-108, 24-111, 24-112,
8 24-113, 24-114, 24-114.01, 24-115, 24-116, 24-117, 24-118, 24-119,
9 24-119.01, 24-120, 24-121, 24-122.01, 24-122.02, 24-123, 24-124,
10 24-128, 24-129, 24-130, 24-135.02, 24-137, 24-138, 24-138.01,
11 24-139, 24-141, 24-142, and 24-152.12 The Prince George's County Code
13 (2011 Edition).14 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
15 Maryland, that Sections 24-101, 24-103, 24-105, 24-107, 24-108, 24-111, 24-112, 24-113,
16 24-114, 24-114.01, 24-115, 24-116, 24-117, 24-118, 24-119, 24-119.01, 24-120, 24-121, 24-
17 122.01, 24-122.02, 24-123, 24-124, 24-128, 24-129, 24-130, 24-135.02, 24-137, 24-138,
18 24-138.01, 24-139, 24-141, 24-142, and 24-152. of the Prince George's County Code be and the
19 same are hereby repealed and reenacted with the following amendments:20 **SUBTITLE 24. SUBDIVISIONS.**21 **DIVISION 1. GENERAL PROVISIONS.**

Subdivision 1. DEFINITIONS.

Sec. 24-101. Definitions.

(a) Definitions in Subtitle 27 of this Code (the Zoning Ordinance) shall apply to this Subtitle and shall be supplemented by the definitions in Subsection (b) of this Section.

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

(30) **Remainder Agricultural Parcel:** On or after October 1, 2012 pursuant to Section 9-206 of the Environment Article a remainder parcel is created by the minor preliminary plan approval process in Sustainable Growth Tier IV and is restricted to non-residential agricultural uses in perpetuity.

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

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

(33) **Sustainable Growth Tier:** The Tiers adopted by a local jurisdiction in accordance with Section 9-206 of the Environment Article, Annotated Code of Maryland.

[(32)] (34) Tree Conservation Plan (TCP): A site map that delineates woodland conservation areas and the associated text that details the requirements, penalties, and/or mitigation in conformance with Division 2 of Subtitle 25 and The Woodland and Wildlife Habitat Conservation Technical Manual.

[(33)] (35) Wetland Buffer: Where a wetland or a portion of a property containing a wetland is located outside the Chesapeake Bay Critical Areas Overlay Zones, a minimum of twenty-five (25) feet in width measured from the edge of the wetland, and expanded to one-hundred (100) feet in width due to the presence of steep slopes fifteen percent (15%) or greater, highly erodible soils, other soils with development constraints, or the presence of Nontidal

Wetlands of Special State Concern as defined by COMAR.

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SUBTITLE 24. SUBDIVISIONS.

DIVISION 1. GENERAL PROVISIONS.

Subdivision 2. GENERAL REQUIREMENTS.

Sec. 24-103. Policy.

(c) The existing and proposed public facilities shall conform to, and be properly related to, the proposals contained in the General Plan and the amendments thereto, the capital improvement programs, and the Ten Year Water and Sewerage Plan. It is intended that these regulations shall supplement the provisions and standards contained in the Building Code, the Zoning Ordinance, the General Plan, area master plans, functional master plans, the road ordinance, capital improvement programs, and the Prince George's County Comprehensive Ten Year Water and Sewerage Plan [.], and Sustainable Growth Tiers as authorized pursuant to Section 9-206 of the Environment Article.

Sec. 24-105. Authority.

By authority of Article 28 of the Annotated Code of Maryland, and other applicable laws, statutes, ordinances, and regulations of the State of Maryland, the Prince George's County Planning Board of the Maryland-National Capital Park and Planning Commission does hereby exercise the power and authority to review, approve, approve with modifications or conditions, or disapprove preliminary plans and final plats for the subdivision of land in that part of the Regional District within Prince George's County, which show lots, blocks, or sites, with or without new streets or highways.

Sec. 24-107. Jurisdiction.

(b) No land shall be subdivided within the Regional District in Prince George's County until:

(1) The subdivider or his agent shall obtain approval of the preliminary plan and final plats by the Planning Board (or the Planning Director in the case of minor subdivisions as determined by the Director); and

(c) The following shall be exempt from the requirement of filing a preliminary plan and final plat of subdivision, [plat, except for any portion of land within a Chesapeake Bay Critical Area Overlay] unless otherwise noted below:

(3) A conveyance of one-half (1/2) acre or more to a son or daughter or lineal descendant or antecedent of the grantor from a tract retaining five (5) or more acres, or two (2) or more acres for property zoned R-A, provided that any lot so created shall be used solely for a one-family detached dwelling and uses accessory thereto and is in compliance with the provisions of [the Zoning Ordinance as described in] Section 24-107(d). Pursuant to this exemption, a grantee may only receive one (1) conveyance from the grantor in a ten (10) year time frame. The grantor shall submit a certified list of all previous grants to any person pursuant to this exception. This exemption may not be used to divide a property that was created pursuant to the provisions for private roads and easements contained in Section 24-128(b) of this Subtitle or used to divide a property that is subject to a Regulating Plan approved in accordance with Subtitle 27A of the County Code:

(6) A conveyance of property used exclusively for agricultural [purposes] uses which, at the time of conveyance, is assessed as agricultural land [;] and the agricultural uses proposed result in a de minimus transportation impact as defined by the *Guidelines for the Analysis of the Traffic Impact of Development Proposal*;

(11) In the Chesapeake Bay Critical Area Overlay Zone, the filing of a preliminary plan and subdivision plat shall not be required if the land was subdivided:

(12) A conveyance, by lease or sale, from a public agency for an arena (stadium). In this case, any portion of the property not conveyed by the public agency that is used for a recreational use shall also be exempt from the requirement of filing a [subdivision plat.] preliminary plan. Additionally, any portion of the property that is subsequently conveyed and used for recreational purposes, other than a stadium, shall also be exempt. This exemption shall only apply to the requirement for a preliminary [plat.] plan. A final plat approved pursuant to Subsection (d) shall be recorded in the Land Records of Prince George's County prior to

designation of the land as a record lot.

(16) In the Sustainable Growth Tier IV the filing of a preliminary plan and final plat shall not be required, unless otherwise noted below, if the land was subdivided:

(A) By any method provided in Subsection (c) prior to October 1, 2012.

(B) On or after October 1, 2012 for the division of land pursuant to Subsection (c) a minor final plat pursuant to Section 24-108 shall be required for a residential or agricultural use

(i) The subdivision of land is limited in total to a cumulative number of residential lots permitted under a minor preliminary plan.

(ii) Agricultural parcel(s) are in addition to the permitted number of residential lots and are restricted to agricultural uses in perpetuity.

(aa) A preliminary plan and final plat of subdivision is required for agricultural uses which generate a greater than de minimus transportation impact as defined by the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*.

(d) Any conveyance of property pursuant to the provisions of Subsection (c) shall not exempt the property from the provisions of the Zoning Ordinance, [or] Subtitle 5B [.] ,or Section 9-206 of the Environment Article. Upon application by any party contemplating a conveyance pursuant to Subsection (c), the application shall be reviewed by the Planning Board staff for compliance with the provisions of the Zoning Ordinance, Subtitle 5B, and Section 9-206 of the Environment Article and the application may be treated as a request for a minor final plat of subdivision for which no preliminary [plat] plan [shall be] is required [if the applicant so indicates and pays the required fee.] unless otherwise required.

Sec. 24-108. Preliminary plan exemptions.

(a) A final plat may be filed with the Planning Director and treated as a minor final plat [subdivision] for which no preliminary plan is required in the following instances:

(b) A final plat shall be filed with the Planning Director and treated as a minor final plat for which no preliminary plan is required in the following instances:

(1) On or after October 1, 2012 in the Sustainable Growth Tier IV any division of land for a residential or agricultural use pursuant to Section 24-107(c).

(A) The minor final plat shall contain appropriate plat notes which limit the

1 further division of land and use of property in accordance with Section 9-206 of the Environment
2 Article and this Subtitle.

3 **24-111. Resubdivision of land.**

4 (a) In any case where land has been legally subdivided according to the law in existence at
5 the time of such subdivision and the present owner desires to change the relationships between a
6 lot and the street shown on the record plat, or between one lot and another, action by the
7 Planning Board shall be governed by the same procedures, rules, and regulations as for a new
8 subdivision, except where filing a [subdivision] final plat is optional, as provided by Section
9 24-107(d).

10 (b) In accordance with specific provisions of the Zoning Ordinance, the Planning Board
11 may approve the resubdivision of residentially zoned land which creates new lots that may not
12 comply with all current requirements of the Zoning Ordinance applicable to new subdivisions.
13 Such resubdivision may only be approved for land previously subdivided in accordance with the
14 Zoning Ordinance standards applicable at the time of the previous subdivision. Such
15 resubdivision may be approved only in those residential zones for which the Zoning Ordinance
16 specifically provides alternative minimum development standards, and only in accordance with
17 the following requirements:

18 * * * * * * * * *

19 **(5) Is not located within Sustainable Growth Tier IV**

20 * * * * * * * * *

21 **24-112. Vacation of plats.**

22 (a) Any recorded plat of subdivision, or any part thereof, may be vacated upon petition by
23 the owner of the premises at any time before the sale of any lot within such subdivision, by a
24 written instrument, to which a copy of the plat shall be attached, accompanied by written
25 evidence that all owners of abutting properties have been notified, declaring the same to be
26 vacated.

27 (b) Such an instrument may be approved by the Planning Board, after posting notice on the
28 property at least thirty (30) days prior to approval, in like manner as for approval of [plats]
29 preliminary plans of subdivision.

30 (c) Such an instrument shall be executed, acknowledged or approved, and recorded or filed,
31 in like manner as record plats [of subdivision]; and, being duly recorded or filed, shall operate to

1 destroy the force and effect of the recording of the plat so vacated, and to divest all public rights
2 in the streets, alleys, and public grounds, and all dedications laid out or described in such plat.

3 (d) When lots have been sold, the plat, or part of the plat, may be vacated in the manner
4 herein provided upon petition of all owners of lots joining in the execution of such writing.

5 * * * * * * * *

6 **24-113. Variations.**

7 (a) Where the Planning Board finds that extraordinary hardship or practical difficulties may
8 result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be
9 served to a greater extent by an alternative proposal, it may approve variations from these
10 Subdivision Regulations so that substantial justice may be done and the public interest secured,
11 provided that such variation shall not have the effect of nullifying the intent and purpose of this
12 Subtitle and Section 9-206 of the Environment Article; and further provided that the Planning
13 Board shall not approve variations unless it shall make findings based upon the evidence
14 presented to it in each specific case that:

15 * * * * * * * *

16 **Sec. 24-114. Enforcement, violations, and penalties.**

17 (a) General.

18 * * * * * * * *

19 (2) Building permits may be recommended for denial for the construction of any building or
20 structure located on a lot or parcel created in violation of the provisions of this Subtitle [.] and
21 Section 9-206 of the Environment Article.

22 * * * * * * * *

23 **Sec. 24-114.01. School Planning Capacity Analysis.**

24 The Planning Board shall conduct a School Planning Capacity Analysis, based on
25 guidelines adopted by the County Council, at the time of preliminary [plat] plan of subdivision,
26 for all subdivisions with residential uses proposed, for planning purposes only. The Board shall
27 use the most recent information provided by the Board of Education regarding pupil yield and
28 school capacity, and shall conduct the test based on the Board of Education's cluster boundaries.
29 The results of this analysis shall be used by the Planning and Board of Education staffs when
30 assessing the need for new or expanded school facilities, and shall not be a consideration in the
31 approval of the subdivision.

SUBTITLE 24. SUBDIVISIONS.

DIVISION 2. APPLICATION PROCEDURE AND DOCUMENTS

Sec. 24-115. General description; procedures, documents, fees

(a) Whenever any subdivision of land is proposed to be made, the subdivider or his agent shall file an application for a preliminary plan and a final plat of the proposed subdivision with the Planning Board.

(b) Documents shall supply sufficient information to indicate compliance with Divisions 3 through 5 of this Subtitle, and with Divisions 6[and] 10, and Section 9-206 of the Environment Article when applicable.

* * * * *

(e) When a historic resource included on the Adopted and Approved Historic Sites and Districts Plan of Prince George's County, Maryland, is located on the subject property of a Preliminary Plan of Subdivision [Plat.] except in the case of the White Farm, identified as Site Number 73 6 on said plan, the preliminary plan application [and plat] shall be referred to the Historic Preservation Commission as soon as practicable after filing. The Historic Preservation Commission shall submit its comments and recommendation for the record within thirty (30) calendar days after the date upon which the application was referred to it. Failure of the Historic Preservation Commission to submit a recommendation within this time period shall constitute no objection to approval of the Preliminary Plan of Subdivision, [Plat.] as requested.

(f) Where the property proposed to be subdivided is located within a Chesapeake Bay Critical Area Overlay Zone, a Conservation Plan shall be submitted for approval by the Planning Board prior to preliminary plan of subdivision approval. Prior to its approval, the Planning Board shall find that the Conservation Plan is consistent with the provisions of Subtitle 5B and Section 9-206 of the Environment Article, and contains provisions sufficient to minimize adverse impacts on the environment.

* * * * *

Sec. 24-116. Subdivision Review Committee.

(a) General. There is hereby created a Subdivision Review Committee which shall assist the Planning Director in coordinating the interagency review and comments on all sketch plans and preliminary [plats.] plans.

* * * * *

1 **Sec. 24-117. Procedures for minor subdivisions.**

2 (a) Definition. In instances in which four (4) or fewer lots in a one-family residential zone
3 are being created[,] or on or after October 1, 2012 in Sustainable Growth Tier IV seven (7) or
4 fewer lots in a one-family residential zone, which may also propose remainder parcel(s)
5 restricted to agricultural uses; or where filing a [subdivision] final plat is optional, or as provided
6 in Section 24-107(d) or as provided in Section 24-108, the applicant may follow the procedure
7 for a minor subdivision[,] as determined by the Planning Director. [except for a conservation

8 subdivision required in Section 24-152.]

9 (b) Time Limitations. [Within forty (40) calendar days of submission, preliminary plats for
10 minor subdivisions shall be approved, approved with modifications, or denied by the Planning
11 Director, after receipt of comments from the Subdivision Review Committee.]

12 (1) Approval by the Planning Director. Within forty (40) calendar days of submission,
13 preliminary plans for minor subdivisions shall be approved, approved with modifications, or
14 denied by the Planning Director, after receipt of comments from the Subdivision Review
15 Committee.

16 (2) Approval by the Planning Board. Such approvals are subject to the requirements of
17 a major subdivision including mandatory action time frames, submittal, notification, and
18 approval requirements, except as provided in (f).

19 (c) Basis for Approval. The Planning Director or Planning Board shall make a finding that
20 the proposed subdivision conforms with the provisions of this Subtitle ,and if applicable Section
21 9-206 of the Environment Article, and Subtitle 27 as the basis for approval; provided, however,
22 that no proposed subdivision to be approved by the Planning Director shall be approved under
23 these procedures if the Planning Department representative or any representative of any agency
24 that will require a subsequent permit, advises that the proposed subdivision is not in
25 conformance with all pertinent laws and regulations.

26 (d) Appeals. The applicant may file an appeal with the Planning Board within twenty (20)
27 calendar days after the date of the Planning Director's action. A minor subdivision approved by
28 the Planning Board has the same rights and shall follow the same procedures as an appeal of a
29 major preliminary plan of subdivision.

30 (e) Final Plat. If the minor subdivision preliminary [plat] plan is approved or approved
31 with modifications [,] by the Planning Director or Planning Board, the subdivider shall proceed

1 promptly to prepare the final plat. Unless a final plat, prepared in accordance with the approved
2 preliminary [plat,] plan, [including any modifications,] is filed with the Planning Board within
3 twenty-four (24) months of approval, unless an extension is granted pursuant to Section 24-119,
4 the [Planning Director's] approval shall be deemed [cancelled] void.
5 * * * * * * * * *

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

7 (a) The subdivider shall pay the appropriate fee and present to the Planning Director a
8 preliminary [plat,] plan, preferably at a scale of one (1) inch equals one hundred (100) feet,
9 showing the following information:
10 * * * * * * * * *

11 (7) Method of sewage disposal proposed and systems area designations in the Ten Year
12 Water and Sewerage Plan [;], and the Sustainable Growth Tier;
13 * * * * * * * * *

14 (11) Deed description or survey of [plat] property boundary;
15 * * * * * * * * *

16 (14) Historic resources within or adjacent to the proposed preliminary [plat] plan of
17 subdivision;
18 * * * * * * * * *

19 (18) Ownership description from October 1, 2012 to present in Sustainable Growth
20 Tier IV, if necessary.
21 * * * * * * * * *

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

23 (a) General.

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

27 (2) Sustainable Growth Tier IV. Acceptance of an application for approval of a major
28 residential subdivision is not permitted after October 1, 2012.

29 (b) Comprehensive Design Zones. For the subdivision of land in any Comprehensive
30 Design Zone, the preliminary [plat] plan may be combined with the Comprehensive Design Plan
31 and Specific Design Plan, in accordance with the provisions of Section 27-531 of the Zoning

1 Ordinance. In this event, one (1) action by the Planning Board shall be sufficient to approve or
2 disapprove the preliminary [plat,] plan, the Comprehensive Design Plan, and the Specific Design
3 Plan. Nothing in this Subtitle or in the Zoning Ordinance shall be deemed to require a subdivider
4 to file a single preliminary [plat] plan for the entire area covered by one (1) approved
5 Comprehensive Design Plan. A preliminary [plat] plan for a portion of such area may be
6 approved, provided that:

7 * * * * * * * * *
8 (d) Preliminary [Plat] Plan. The subdivider shall present a preliminary [plat] plan to the
9 Planning Department, [, accompanied by a check or money order made payable to the Maryland-
10 National Capital Park and Planning Commission, covering the filing fee.]

11 * * * * * * * *
12 (2) Within four (4) weeks, the preliminary [plat] plan shall be reviewed by the
13 Subdivision Review Committee.

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

18 [(6)] (5) An approved preliminary [plat] plan of subdivision shall remain valid for two
19 (2) years from the date of its approval, unless an extension of the validity period is granted.

20 (A) Extensions of the validity of an approved preliminary [plat] plan may be
21 granted by the Planning Board provided:

22 (i) The request is filed prior to the expiration of the preliminary [plat] plan
23 approval;

24 (ii) The preliminary [plat] plan remains in conformance with all the
25 requirements of Subtitle 27 applicable to the subject property;

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

(vi) The validity of a preliminary [plat] plan 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;] plan;

[(7)] (6) An approved preliminary [plat] plan of subdivision consisting of more than four hundred (400) residentially zoned lots or dwelling units 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] plan or any extension thereof may be granted by the Planning Board provided:

[(8)] (7) An approved preliminary [plat] plan 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] plan of subdivision shall be owned by one person or entity as defined above, unless any portion is exempted from the requirement of filing a final plat [of subdivision] by Section 24-107(c).

(e) Final Plat. Upon approval of the preliminary [plat] plan 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] plan 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] plan of subdivision, unless an extension of the approved preliminary [plat] plan 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

1 preliminary [plat] plan is valid.

2 * * * * * * * *

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

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

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

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

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

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

29 (E) At the time the Planning Board gives notice of approval of a cluster
30 subdivision preliminary plan or final plat, the Board shall notify persons of record of their right
31 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) days of:

(A) The Planning Board's notice of approval;

(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.]

(2) Any final plat of subdivision not recorded within one hundred eighty (180) days shall no longer be valid.

[2)] (3) 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.

Sec. 24-119.01. Informational mailing, civic association registration.

(a) Informational mailings with applications.

(1) At least thirty (30) days before the Commission accepts an application for a preliminary [plat] plan of subdivision, or a sketch plan required for a conservation subdivision pursuant to Section 24-152(e), or a minor preliminary plan to be approved by the Planning Board, the applicant shall send by first class mail an informational mailing to all adjoining property owners, including owners whose properties lie directly across a street, alley, or stream. Notice to prior parties of record shall be required if the applicable case was approved within ten (10) years of filing the current preliminary [plat] plan of subdivision. This notice shall inform the person of record in the previous application(s) of the procedure 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] plan 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.

(2) The applicant shall send informational mailings to previous persons of record for the following types of applications: Preliminary [Plats] Plans of Subdivision, including a minor

1 preliminary plan to be approved by the Planning Board, Sketch Plans for Conservation
2 Subdivisions, Zoning Map Amendments, Comprehensive and Specific Design Plans, Conceptual
3 and Detailed Site Plans, Special Exceptions and Revisions of Site Plans for Special Exceptions,
4 Special Permits, Variances and Chesapeake Bay Critical Area Conservation Plans filed in
5 conjunction with other applications requiring public hearings by the Planning Board or District
6 Council, Nonconforming Use Certifications, Departures from Sign or Design Standards, and
7 Departures from the required number of Parking and Loading Spaces. It applies to private
8 applications to amend those zones, plans permits, and departures; to amend the M-U-T-C, T-D-
9 O, or D-D-O Zone; to approve or amend the M-U-I Zone; and to amend conditions imposed by
10 the Planning Board or District Council. It applies to all applications to amend an Aviation Policy
11 Area or a Chesapeake Bay Critical Area Overlay Zone. It applies to all Sectional Map
12 Amendments where a Regulating Plan was approved in accordance with Subtitle 27A of the
13 County Code. It does not apply to District Council initiated plans and studies for the M-U-T-C,
14 T-D-O, or D-D-O Zone, to Special Exception revocation petitions filed by the Department of
15 Environmental Resources, or to applications which the Planning Director is authorized to
16 approve administratively.

17 * * * * * * * * *

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

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

25 * * * * * * * * *

26 (7) Method of sewage disposal proposed, and systems area designations in the Ten
27 Year Water and Sewerage Plan[;] and designation within the Sustainable Growth Tier;

28 (8) An approved stormwater management concept plan or indication that an application
29 for such approval has been filed with the [Department of Environmental Resources] appropriate
30 agency or the municipality having approval authority;

31 * * * * * * * * *

(16) Deed description or survey of [plat] the property boundary;

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

(26) Such additional information as may be needed to show compliance with this Subtitle, [.] Subtitle 27, and Section 9-206 of the Environment Article.

(b) Final Plat.

(6) The Final Plat shall show:

(F) The location of property line markers or monuments. Such monuments and metal property line markers shall be three-quarters (3/4) of an inch in diameter and twenty-four (24) inches in length, and shall be placed in the ground at all lot corners, intersections of streets, intersection of streets and alleys with [plat] property boundary lines, and at all points on street, alley, and lot boundary lines where there is a change in direction or curvature;

(K) All conservation easements with metes and bounds and the associated final plat note(s); and

(8) Signing of Final Plat. The Chairman of the Planning Board and the Secretary-Treasurer or his official designee, shall signify approval by signing the final plat after all conditions pertaining to the final plat have been satisfied.

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:

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

9 (14) If an entrance feature or gateway sign is proposed in a residential subdivision, it shall
10 be identified on the preliminary [plat] plan on a separate Homeowners' Association parcel, or
11 easement located on a homeowner's lot, and be designed in accordance with the standards in
12 Section 27-624 of the Zoning Ordinance. A Homeowners' Association or other entity or person
13 designated in a maintenance arrangement approved by the Department of Environmental
14 Resources, shall be responsible for the maintenance of the entrance feature or gateway sign.

20 Sec. 24-122.01. Adequacy of public facilities.

21 (a) The Planning Board may not approve a preliminary plan of subdivision [plat] if it finds
22 that adequate public facilities do not exist or are not programmed for the area within which the
23 proposed subdivision is located, as defined in the "Guidelines for the Mitigation of Adequate
24 Public Facilities: Public Safety Infrastructure" and "Guidelines for the Analysis of the Traffic
25 Impact of Development Proposals." The Planning Board shall require adequate public facilities,
26 as provided in this Section and in Division 4 of this Subtitle.

27 (b) Water and sewerage.

28 (1) The location of the property within the appropriate service area of the Ten Year
29 Water and Sewerage Plan is deemed sufficient evidence of the immediate or planned availability
30 of public water and sewerage for preliminary plan or final plat approval[.] ; and

(2) Applications filed on or after October 1, 2012, pursuant to the Sustainable Growth

1 Act Section 9-206 of the Environment Article, the following restrictions apply to residential
2 subdivisions:

- 3 (i) Tier I All lots shall be served by public sewer.
- 4 (ii) Tier II All lots shall be served by public sewer; or if the subdivision is a minor
5 subdivision it may be served by on-site sewer disposal systems.
- 6 (iii) Tier III All lots shall be served by on-site sewer disposal systems.
- 7 (iv) Tier IV All lots in a minor subdivision shall be served by on-site sewer
8 disposal systems. A residential major subdivision served by on-site sewer disposal systems is not
9 permitted.

10 (c) Police facilities.

- 11 (1) Before any preliminary [plat] plan may be approved, the Planning Board shall
12 find that:

13 (A) The population and/or employees generated by the proposed subdivision at
14 each stage of the proposed subdivision will not exceed the service capacity of existing police
15 stations as determined by the Planning Board in the "Guidelines for the Mitigation of Adequate
16 Public Facilities: Public Safety Infrastructure" as may be amended from time to time; or

17 * * * * * * * * *

18 (d) Fire and rescue facilities.

- 19 (1) Before any preliminary [plat] plan may be approved, the Planning Board shall
20 find that:

21 (A) The population and/or employees generated by the proposed subdivision at
22 each stage of the proposed subdivision will be within the adequate coverage area of the nearest
23 fire and rescue station(s) as determined by the Planning Board in the "Guidelines for the
24 Mitigation of Adequate Public Facilities: Public Safety Infrastructure" as may be amended from
25 time to time; or

26 (B) An adequate fire and rescue station(s) available to serve the population
27 and/or employees generated by the proposed subdivision has been programmed with one
28 hundred percent (100%) of the expenditures for the construction of such a facility within the
29 adopted County Capital Improvement Program as determined under the "Guidelines", provided,
30 however, that if construction of such improvements has not commenced within nine (9) years
31 after the first year the project is fully funded in an adopted County Capital Improvement

1 Program, the preliminary [plat] plan may not be considered and approved by the Planning Board
2 based upon future construction until such facilities are actually constructed; or
3 * * * * *

4 (2) Before any preliminary [plat] plan may be approved, if the location of the
5 property proposed for subdivision is outside the appropriate service area of the Ten Year Water
6 and Sewerage Plan or is in the Rural Tier, the Planning Board shall require the subdivider to
7 provide water storage tanks, the availability of water tanker trucks, or other appropriate source of
8 water for fire extinguishing purposes.

9 (e) Data Collection by Office of Audits and Investigations and Office of Management and
10 Budget.
11 * * * * *

12 (2) If any of the required statements in this Subsection are not provided that meet the
13 criteria specified in this Section on the date the application is accepted by the Planning Board or
14 within the following three (3) monthly cycles of response time reports, then the Planning Board
15 may not approve the preliminary [plat] plan until a mitigation plan between the applicant and the
16 County is entered into and filed with the Planning Board.

17 (3) The provisions of Subsection (e) (1) shall not apply to commercial or industrial
18 applications for preliminary [plats.] plans.
19 * * * * *

20 **Sec. 24-122.02. School Facilities Tests.**

21 (a) At the time of a preliminary [plat] plan of subdivision, the Planning Board shall apply
22 an adequacy of school facilities test in accordance with this Subsection.
23 * * * * *

24 (C) The completion enrollment, which is the total number of elementary, middle, and
25 high school students to be generated by the estimated number of residential completions, for
26 each school cluster.
27 * * * * *

28 (ii) In determining completion enrollment, the estimated number of
29 residential completions in a given school cluster will not exceed the number of dwelling units
30 shown on:

31 (aa) An approved preliminary [plat] plan of subdivision with no

1 waiting period, or with a waiting period less than twenty-four (24) months as of September 30 of
2 each calendar year; and

3 * * * * * * * * *

4 (D) The subdivision enrollment, which is the anticipated number of elementary,
5 middle, and high school students to be generated by all dwelling units shown on the proposed
6 preliminary [plat] plan of subdivision, multiplied by the pupil yield factor.

7 (E) The cumulative enrollment, which is the total of all subdivision enrollments
8 resulting from approved preliminary [plats] plans of subdivision in each school cluster for the
9 calendar year in which an adequate public facilities test is being applied.

10 * * * * * * * * *

11 (b) The following shall be exempt from the preliminary [plat] plan of subdivision test in
12 Subsection (a):

13 * * * * * * * * *

14 (5) A subdivision for fewer than thirty-six (36) dwelling units, which will not be served
15 by public water and sewerage systems, is not included in a large Comprehensive Design or
16 Mixed-Use Zone development, and for which the applicant/owner, or predecessors in interest
17 and/or title, did not own any property adjacent to the proposed subdivision as of May 31, 1997.
18 For purposes of this Subsection:

19 (A) A subdivision means all land originally included in one preliminary [plat] plan
20 application. Subsequent re-subdivision for the purpose of creating additional lots is permitted,
21 provided that in no case shall an exemption be applied to more than a total of thirty-five (35)
22 lots; and

23 (B) Land is considered adjacent if the property lines:

24 * * * * * * * * *

25 (iii) Are separated only by other land of the applicant/owner or their predecessors
26 in interest and/or title which is not subject to this Section at the time the applicant submits a
27 preliminary [plat] plan of subdivision for approval.

28 * * * * * * * * *

29 SUBTITLE 24. SUBDIVISIONS.

30 DIVISION 4. REQUIREMENTS: TRANSPORTATION AND CIRCULATION.

31 Sec. 24-123. General requirements.

1 **(a) The Planning Board shall require that [plats] preliminary plan conform to the**
2 **following:**

3 (1) The rights-of-way of all highways, streets, and transit facilities shown on the General
4 Plan, functional master plans, and area master plans shall be shown on the preliminary [plat] plan
5 and, when reserved or dedicated, shown on the final plat.

6 * * * * * * * * * *
7 (6) Land for bike trails and pedestrian circulation systems shall be shown on the
8 preliminary [plat] plan and, where dedicated or reserved, shown on the final plat when the trails
9 are indicated on a master plan, the County Trails Plan, or where the property abuts an existing or
10 dedicated trail, unless the Board finds that previously proposed trails are no longer warranted.

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

12 (a) Before any preliminary [plat] plan may be approved, the Planning Board shall find
13 that:

14 * * * * * * * * * *

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

16 (a) No subdivision [plat] plan or plan of development (however designated) shall be
17 approved that provides for a private road, right-of-way, or easement as the means of vehicular
18 access to any lot, and no building permit shall be issued for the construction of any building in a
19 subdivision unless such building is to be located on a lot or parcel of land having frontage on and
20 direct vehicular access to a public street, except as hereinafter provided.

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

23 (1) In the O-S, R-A, R-E, and R-R Zones, a private right-of-way easement may be
24 deemed adequate by the Planning Board if no more than four (4) lots are to be served by the
25 easement [and if shown to be in conformance with the following criteria:], or in Sustainable
26 Growth Tier IV no more than seven (7) lots and a remainder agricultural parcel(s), subject to the
27 following criteria:

28 * * * * * * * * * *

29 (C) The use of such lots shall be restricted to one-family dwellings or agricultural
30 [purposes] uses.

(D) The right-of-way easement is adequate to serve the proposed uses pursuant to

Section 24-124.

* * * * *

(7) In Comprehensive Design and Mixed Use Zones:

* * * * *

(C) Notwithstanding the provisions of subparagraphs (A) and (B), above, the Planning

Board may approve [subdivision plats] preliminary plans and Specific Design Plans, and

building and use and occupancy permits may be issued, for one-family detached dwellings on

lots in the R-S Zone that are served by a private access road shown on a Comprehensive Design

Plan approved by the Planning Board prior to January 1, 1985, provided that:

* * * * *

(d) Upon petition of the owner of an existing lot having its sole frontage on, or its only direct vehicular access to, a private right-of-way or easement not provided for by Subsection (b), paragraphs (2) through (11), or Subsection (c), above, and upon the recommendation of the County Executive, the County Council, by resolution, may approve the issuance of a building permit for any building or other structure on such lot, subject to the following conditions:

* * * * *

(4) Where the issuance of a building permit has been approved pursuant to the provisions of this Subsection, the Planning Board may approve any applicable [subdivision] final plat or plan of development for such lot.

SUBTITLE 24. SUBDIVISIONS.

DIVISION 5. REQUIREMENTS: ENVIRONMENTAL AND PARKS.

Sec. 24-129. One hundred (100) year floodplain.

(b) In the case of a proposed subdivision which includes a one hundred (100) year floodplain area along a stream, unless such area is to become a public park or recreation area maintained by a designated responsible public authority, the area shall be denoted upon the final plat as a floodplain easement. Such easement shall include provisions for ingress and egress, where practicable. The floodplain easement area may be used, if necessary, for utility lines and/or storm drainage facilities, open-type fencing, or passive recreation, provided that no

1 structures are built that would interfere with the flood conveyance capacity of such easement
2 area.

3 * * * * * * * * * * *

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

5 * * * * * * * * * *

6 (b) The Planning Board shall require that proposed subdivisions conform to the following:
7 (1) The [plat] preliminary plan shall demonstrate adequate control of the increased
8 runoff due to the ten (10) year storm or such other standards as State law or the County shall
9 adopt.

10 * * * * * * * * * *

11 (3) The submission of a storm drainage and stormwater management concept plan,
12 and approval thereof by the County, may be required prior to preliminary [plat] plan approval.
13 (4) Where a property is partially or totally within an area covered by an adopted
14 Watershed Plan, the [plat] preliminary plan shall conform to such plan.

15 * * * * * * * * * *

16 **Sec. 24-135.02. Cemeteries.**

17 (a) When a proposed preliminary [plat] plan of subdivision includes a cemetery within the
18 site, and there are no plans to relocate the human remains to an existing cemetery, the applicant
19 shall observe the following requirements:

20 (1) The corners of the cemetery shall be staked in the field prior to preliminary [plat]
21 plan submittal. The stakes shall be maintained by the applicant until preliminary [plat] plan
22 approval.

23 (2) An inventory of existing cemetery elements (such as walls, gates, landscape
24 features and tombstones, including a record of their inscriptions) and their condition shall be
25 submitted as part of the preliminary [plat] plan application.

26 * * * * * * * * * *

27 (d) Upon approval of a preliminary [plat] plan of subdivision, any cemetery approved in
28 accordance with this Section which does not meet the regulations of the zone in which it is
29 located, shall be deemed to be a certified nonconforming use unless otherwise specified by the
30 Planning Board.

31 **SUBTITLE 24. SUBDIVISIONS.**

DIVISION 6. REQUIREMENTS FOR OPTIONAL APPROACHES.**Sec. 24-137. Cluster subdivision.**

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

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

(d) Modification of development regulations. Modification of yard, frontage, lot coverage, and net lot area requirements may be permitted by the Planning Board in accordance with the pertinent provisions of the Zoning Ordinance for lots within the interior of the cluster subdivision. These provisions represent the theoretical minimum standards and maximum densities permissible in cluster developments. They will not necessarily be acceptable for all cluster developments, and should not be construed to be authorized as a matter of right. These requirements shall not be modified for lots at entrances to cluster developments, or for lots adjoining existing streets along which the cluster development has frontage, in cluster subdivisions for which the preliminary [plat] plan of subdivision was approved on or after September 1, 1986, unless a combination of cluster open space and lot areas will result in development that appears to have occurred without approval of modified development regulations. All modifications shall be shown on all [subdivision plats,] preliminary plans, Conceptual Site Plans, and Detailed Site Plans for cluster development.

(f) [Subdivision plats;] Preliminary Plans; site plans; other submittal requirements. In addition to the information otherwise required, the preliminary plans and final plats for cluster development shall include the location and dimensions of yards. An application for preliminary [subdivision plat] plan approval shall be accompanied by a Conceptual Site Plan, which shall

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

15 (g) Criteria for approval. An approved cluster development shall, through creative design
16 and a variety of one-family detached dwelling styles, provide for a total environment better than
17 that which would normally be achieved under standard regulations. If, in the opinion of the
18 Planning Board, the proposed preliminary [plat] plan of subdivision, Conceptual Site Plan,
19 Detailed Site Plan, or architectural drawings could be improved with respect to the criteria listed
20 below by the reasonable modification of the purpose, configuration, location, or design of cluster
21 open space or buildings, or the location or configuration of lots, streets, parking areas, or other
22 features of the development, the proposed preliminary [plat] plan of subdivision, Conceptual Site
23 Plan, Detailed Site Plan, or architectural drawings shall be so modified or disapproved. In
24 approving a proposal, the Planning Board shall find that the following criteria have been met, as
25 applicable to the particular [plat or] plan under consideration:

26 * * * * * * * * *

27 (h) Amendment and withdrawal of preliminary [plat] plan or site plan. An approved
28 preliminary [plat] plan for cluster development may be amended upon petition by the applicant
29 for the subdivision or by a subsequent owner prior to final plat approval. An approved
30 preliminary [plat] plan may be withdrawn at any time before final plat approval. An approved
31 Conceptual Site Plan or Detailed Site Plan may be amended in accordance with Section 27-289

1 of the Zoning Ordinance. Approved architectural drawings may be amended upon submission to
2 the Planning Board's designee when such amendment will not adversely affect the stated
3 purposes for original approval of such drawings. When the Planning Board's designee finds that
4 the proposed amendment will not achieve the stated purposes for approval of such drawings, the
5 architectural drawings may only be amended in accordance with Section 27-289 of the Zoning
6 Ordinance.

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

14 [(j) Appeal of Board actions.

15 (1) Planning Board action on a cluster subdivision final plat may be appealed to the
16 District Council by any party of record in the Board case on the preliminary plan or final plat, as
17 of the date of the hearing on the final plat. The Planning Board shall give notice of its decision
18 on the final plat by sending a copy to each party of record by first-class mail, postage prepaid.

19 (2) The appeal shall be filed with the Clerk of the Council within thirty (30) days of
20 the Planning Board's mailing of notice of action on the cluster subdivision.

21 (3) The notice of appeal shall refer to the record before the Planning Board, and shall
22 set forth the reasons for the appeal. In deciding an appeal of Planning Board action on a cluster
23 subdivision, the Council shall determine whether the Board's action on the preliminary plan or
24 final plat was arbitrary, capricious, unsupported by substantial evidence, or otherwise contrary to
25 law. In an appeal, the Council may approve, approve with conditions or modifications, remand,
26 or deny the final subdivision plat.]

27 **Sec. 24-138. Zero lot line development.**

28 * * * * *

29 (b) Procedures. Sketch plans are encouraged but not required. Procedures for preliminary
30 [plat] plan and final plat review are the same as for conventional subdivision, except for the
31 additional information required in Subsection (c), below, and the requirement that any waiver

1 from any law or regulation administered by an agency other than the Planning Board shall be
2 approved by such agency prior to recordation. Such waivers shall be shown on an appropriate
3 document such as street grade establishment plan, preliminary [plat] plan, site plan, or other
4 document describing the waiver granted, and shall include the signature of the approving official.
5 Failure to obtain such approval(s) shall invalidate any preliminary [plat] plan approval.

6 (c) Documents Required.

7 (1) Preliminary [Plat.] Plan. The applicant shall submit a proposed site plan and a
8 statement detailing any waivers that are being sought and the reasons therefor, along with any
9 calculations needed to support these reasons. The statement may include, but need not be limited
10 to, reasons for minimizing grading (such as tree preservation), not providing sidewalks (such as
11 providing a separate pedestrian trail), or scaling down the paving widths (due to the limited
12 number of units proposed); rough calculations to show that retention of natural drainage systems
13 will suffice to handle stormwater safely; or proposals for open space retention and recreational
14 facilities that equal or exceed what would have been achieved through mandatory dedication.
15 The [plat] preliminary plan shall show building envelopes when zero lot line development is
16 proposed or when waivers of the grading requirements for building pads are requested.
17 Maintenance easements shall be reflected on the preliminary [plat] plan, and proposed covenants,
18 or other appropriate documents, shall be submitted for approval by the Planning Board providing
19 for privacy walls, sound proofing of common walls, and restrictions on the use of walls on a lot
20 line. Such approved covenants, or other documents, shall be filed in the Land Records of the
21 County at the time of filing the final plat.

22 (2) Final Plat. In addition to the normal documents, the final plat shall indicate that
23 the subdivision has been approved under an optional residential design approach, any waivers
24 required have been agreed to by the operating agencies, and all conditions of the preliminary
25 [plat] plan have been met. The final plat shall include a certification, where appropriate, that the
26 subdivision is subject to covenants or other restrictions.

27 (d) Findings. Prior to the approval of any preliminary [plat] plan, site plan, covenant, or
28 other document submitted under these regulations, the Planning Board shall find that:

29 * * * * *

30 **Sec. 24-138.01. Flag lot development.**

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

3 * * * * * * * * *

4 (b) Procedures. Procedures for preliminary [plat] plan and final plat review are the same
5 as for conventional subdivision, except for the additional information required in Subsection (c),
6 below.

7 (c) Additional submittal requirements.

8 * * * * * * * * *

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

15 * * * * * * * * *

16 (d) Design Standards. Where provided for by the Zoning Ordinance, flag lots may be
17 permitted, provided the following conditions are met:

18 * * * * * * * * *

19 (4) Building envelopes shall be established at the time of preliminary [plat] plan approval.

20 * * * * * * * * *

21 (5) Shared driveways shall not be permitted unless the lot is located within the Chesapeake
22 Bay Critical Area or the M-X-C Zone. When shared driveways are provided, they shall be in
23 accordance with the following:

24 * * * * * * * * *

25 (B) Easement locations for shared driveways must be shown on the preliminary [plat]
26 plan and the final plat.

27 * * * * * * * * *

28 (6) Where a rear yard is oriented towards a driveway that accesses other lots, or towards a
29 front or side of another lot, the rear yard shall be screened by an "A Bufferyard" as defined by
30 the Landscape Manual, unless Alternative Compliance is approved at the time of preliminary

1 [plat.] plan. The location of the bufferyard shall be shown on the preliminary and final plat.
2 (See Figures 1 and 2.)

3 (7) Where a front yard is oriented towards a rear yard, a "C Bufferyard" as defined by the
4 Landscape Manual shall be provided, unless Alternative Compliance is approved at the time of
5 preliminary [plat.] plan. The location of the bufferyard shall be shown on the preliminary plan
6 and final plat.

7 (e) Evaluation criteria.

8 * * * * * * * * * *
9 (3) Prior to the approval of both preliminary plans and final plats of subdivision, when the
10 Planning Board finds that the retention of trees, topography, or any other design feature is
11 integral to development of the site, such approvals shall be expressly conditioned upon the
12 inclusion of this design feature.

13 (f) Findings.

14 (1) Prior to the approval of any preliminary [plat] plan submitted under these regulations,
15 the Planning Board shall find that:

16 * * * * * * * * * *
17

SUBTITLE 24. SUBDIVISIONS.

DIVISION 7. RESERVATIONS.

Sec. 24-139. Procedures; referrals; hearing; declaration.

20 (a) The Planning Board, when reviewing a preliminary [plat,] plan, shall refer to the
21 General Plan, master plans, or amendments and parts thereof, to determine the need for reserving
22 for public use any of the land included in the preliminary [plat.] plan. Reservations may be
23 required for:

24 * * * * * * * * * *
25

26 (b) If a reservation appears desirable, the Planning Board shall refer the [plat] preliminary
27 plan to the public agency concerned with acquisition for its consideration and report; and to the
28 County Executive, County Council, and any municipality within which such property is located,
29 for their comments. The Planning Board may propose alternate areas for such reservation and
30 shall allow thirty (30) days for reply. The public agency's recommendation, if affirmative, shall
31 include a map showing the boundaries and area of the parcel to be reserved, and an estimate of
the time required to complete the acquisition.

(c) Upon receipt of an affirmative report from a public agency, as provided in Subsection (b), the Planning Board shall notify the property owner, the County Executive and the County Council and, except as provided in Subsection (d), shall establish such reservation, with or without modifications, concurrently with the approval of the preliminary [subdivision plat.] plan.

(f) Final plats for the property shall be in strict conformity with the preliminary [plat] plan as to public reservation.

(g) The Planning Board shall cause to be prepared a final plat of any land reserved for public use under the provisions of this Division, showing the survey location of the land, names and addresses of the owners, and any other information required for its proper indexing and for filing among the Land Records of Prince George's County. The final plat shall comply with all requirements for recording of plats among the Land Records of Prince George's County, and shall be duly recorded.

Sec. 24-141. Termination of reservation; renewal.

(a) The expiration of a preliminary [plat] plan shall not affect a reservation if, before the expiration date, a reservation plat has been recorded by the Planning Board. Lacking such action, the reservation, too, shall be deemed cancelled.

* * * * *

SUBTITLE 24. SUBDIVISIONS.

DIVISION 8. FORM GUIDE.

Sec. 24-142. Purpose.

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

(1) Dedication forms:

(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.

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

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

8 We assent to this final plat of subdivision.

9
10 Date:
11
12 _____ LS _____
13 _____
14
15 Date:
16 _____
17 _____ LS _____
18

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

21
22 (B) Dedication for Corporations (same as foregoing form for individual except
23 as indicated below):

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

27 Date: _____

28 By: _____

29 Attest: _____

30 (2) Surveyor's Certificate:

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

8
9 Signature

10 Date: _____

11 (Surveyor)

12 * * * * * * * * *

13 SUBTITLE 24. SUBDIVISIONS.

14 DIVISION 11. CONSERVATION SUBDIVISIONS.

15 Sec. 24-152. Conservation Subdivisions.

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

- 19 (1) Property zoned R-80; [or]
- 20 (2) Four (4) or fewer lots in Sustainable Growth Tier III, provided no additional
21 subdivision for additional lots is permitted for the entirety of the original application and the
22 original property has not been the result of a previous subdivision pursuant to Section 24-
23 107(c)(3)[.]; or
- 24 (3) Seven (7) or fewer lots in Sustainable Growth Tier IV, provided no additional
25 subdivision for additional lots is permitted for the entirety of the original application and the
26 original property has not been the result of a previous subdivision pursuant to Section 24-
27 107(c)(3).

28 * * * * * * * * *

29 (f) **Submittal requirements.** The applicant shall file a sketch plan in accordance with
30 Section 24-119(c) before submitting a preliminary [plat] plan 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] plan of subdivision.

(B) Upon a written request received prior to the expiration, the sketch plan validity period may be extended by the Planning Director, if the applicant has not unduly delayed the filing of a preliminary [plat] plan of subdivision.

(g) Conservation area.

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

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

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

(p) **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:

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

* * * * *

SECTION 2. BE IT FURTHER ENACTED that this Act shall take effect on January 1, 2013.

Adopted this 20th day of November, 2012.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: Andrea C. Harrison

Andrea C. Harrison
Chair

ATTEST:

Redis C. Floyd

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: 12-6-2012

BY: Rushern L. Baker, III

Rushern L. Baker, III
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.

Prince George's County Council Agenda Item Summary

Meeting Date:	11/20/2012
Reference No.:	CB-104-2012
Draft No.:	2
Proposer(s):	Park & Planning
Sponsor(s):	Franklin
Item Title:	A Subdivision Bill for the purpose of incorporating Section 9-206 of the Environment Article of the Annotated Code of Maryland and making changes to the subdivision regulations
Drafter:	M-NCPPC Staff
Resource Personnel:	M-NCPPC Staff

LEGISLATIVE HISTORY:

Date Presented:		Executive Action:	12/6/2012 S
Committee Referral:	10/9/2012 - PZED	Effective Date:	1/1/2013
Committee Action:	11/7/2012 - FAV		
Date Introduced:	10/9/2012		
Public Hearing:	11/20/2012 - 10:00 AM		
Council Action (1)	11/20/2012 - ENACTED		
Council Votes:	WC:A, DLD:A, MRF:A, AH:A, ML:A, EO:-, OP:A, IT:A, KT:-		
Pass/Fail:	P		
Remarks:			

AFFECTED CODE SECTIONS:

24-101, 24-103, 24-105, 24-107, 24-108, 24-111, 24-112, 24-113, 24-114, 24-114.01, 24-115, 24-116, 24-117, 24-118, 24-119, 24-119.01, 24-120, 24-121, 24-122.01, 24-122.02, 24-123, 24-124, 24-128, 24-129, 24-130, 24-135.02, 24-137, 24-138, 24-138.01, 24-139, 24-141, 24-142, 24-152

COMMITTEE REPORTS:

PLANNING, ZONING & ECONOMIC DEVELOPMENT

Date 11/7/2012

Committee Vote: Favorable with recommended amendments, 3-1 (In favor: Council Members Franklin, Harrison and Patterson. Oppose: Council Member Olson)

CB-104-2012 was discussed in conjunction with CR-83-2012, a Resolution concerning the Implementation in Prince George's County of Senate Bill 236, Sustainable Growth and Agricultural Preservation Act of 2012 for the purpose of adopting the Prince George's County Sustainable Growth Act Tier Map. CB-104-2012 proposes amendments to Subtitle 24 to integrate SB 236 into the County Code. Both items were transmitted by the M-NCPPC Planning Board for the County Council's consideration.

Derick Berlage and CJ Lammers, representing the Planning Board, provided a PowerPoint summarizing the purposes and provisions of SB 236, consequences of not adopting Tiers, effect on development in Tiers I-IV, decisions which must be made by the Council, and the Planning Board's recommendations. The two decisions which must be made by the Council are 1) mapping Sustainable Growth Act Tiers (CR-83-2012 adopts the Tier Map), and 2) number of

lots allowed in a minor subdivision. The Planning Board's transmittal of the legislation recommended that the definition of minor subdivision as currently provided in the Subdivision Regulations be revised from four to seven lots (CB-104-2012). On October 9, 2012, the County Council introduced CB-104-2012, Draft-1, with the definition remaining at four lots. Subsequent to introduction of the legislation, the Planning Board staff transmitted additional non-substantive clarifying amendments which were presented for the committee's review and consideration.

The Office of Law reviewed the legislation and found it to be in proper legislative form with no legal impediments to its enactment. The Office of Audits and Investigations reviewed CB-104-2012 and determined the enactment of the legislation may have a negative fiscal impact on the County due to the potential loss of tax receipts that would have been received by the County if there were no restrictions on the number of residential lots that could be subdivided.

Yates Clagett, President of the Farm Bureau, and Sandra Crow, testified regarding the legislation. Mr. Clagett requested the Council's consideration of changing the minor subdivision definition to seven lots as recommended by the Planning Board and also suggested consideration of a Transfer of Development Rights Program due to the equity loss for property owners associated with the implementation of SB 236.

The committee voted favorable on the legislation including the non-substantive clarifying amendments provided by the Planning Board staff as well as the change to the minor subdivision definition from four to seven lots.

BACKGROUND INFORMATION/FISCAL IMPACT:

(Includes reason for proposal, as well as any unique statutory requirements)

A preliminary plan of subdivision accepted prior to October 1, 2012, or a legal deed of division accepted into the county land records prior to October 1, 2012 for residential uses on septic, is grandfathered from SB 236. On or after October 1, 2012, SB 236 is applicable with or without any further action by the county to approve the Sustainable Growth Act (SGA) tiers or amend the Subdivision Regulations (Subtitle 24).

In order to establish a clear and transparent process for the residential subdivision of land, and to ensure that the county conforms to the state mandate, staff is recommending amendments to Subtitle 24. This subdivision bill is intended to implement SB 236 and not go beyond the state mandate. SB 236 restricts the number of residential lots that can be created using septic fields in Tier IV; in Tier IV a major subdivision is not permitted. The limitation on the number of residential lots is based on the county's definition of a minor subdivision. The bill also contains provisions that clarify the difference between a preliminary plan and final plat.

Currently in Prince George's County, a subdivision of four or fewer lots in a residential zone can utilize a minor subdivision process that does not require public notice or a public hearing. In addition, certain deed divisions of land are exempt from the requirement to file a preliminary plan of subdivision and a final plat. For example, the creation of any number of lots can occur to linear decedents and antecedents through the intra-family transfer process through the use of a deed without a preliminary plan of subdivision or a final plat.

The current exemptions from the preliminary plan of subdivision and plat processes are primarily for residential uses and are used most often in the Rural Tier for intra-family transfers of newly created lots. Currently these subdivisions of land are performed by the recordation of a deed, and then only reviewed later when an application for building permit is submitted. This can often occur years after the original division of land. The existing intra-family transfer provision is not limited in the number of lots that can be created, except by the number of linear decedents or antecedents. Once the division occurs the lots can be immediately sold to unrelated people. On or after October 1, 2012, these divisions of land are subject to SB 236. In other words, an existing legal parcel of land or lot as of October 1, 2012, cannot be subdivided beyond the number of lots permitted in a minor subdivision in perpetuity in Tier IV. The ability to track the division of land in the future becomes imperative to ensure conformance to SB 236.

Therefore, the exemptions from filing a preliminary plan and final plat of subdivision that exist in the current code in Section 24-107 are proposed to be modified for residential and agriculture subdivisions in Tier IV. To ensure

conformance with the restrictions on the number of lots and proposed uses required in SB 236, staff is recommending that the exemptions from filing a preliminary plan of subdivision be retained and require only a minor final plat, instead of eliminating the exemptions altogether. The plat is required by SB236.

The plat process will enable the county, as well as an existing or perspective property owner, clear notice of the restrictions on the use and further subdivision of the land. SB 236 requires "plat notes" which will ensure that over time the cumulative number of lots and use of the property does not exceed that permitted by SB 236. Currently, a minor preliminary plan of subdivision may be approved by the Planning Director and requires no public notice. Minor subdivisions are currently not approved by the Planning Board. If a minor subdivision requires a Planning Board action it is converted to a major subdivision for which public notice and posting is required. However, SB 236 does not allow major subdivisions in Tier IV; therefore, staff is recommending the creation of a process which would allow a minor subdivision to be approved by the Planning Board when necessary. Minor subdivisions that require Planning Board approval include applications with a variation or other situations where a public hearing is deemed by the Planning Director to be necessary or appropriate. The minor subdivisions that are approved by the Planning Board will be processed as a major subdivision with all the applicable provisions including public notice and a public hearing.

Staff is recommending the expansion of the definition of a minor subdivision to include remainder agricultural parcel(s). Remainder agricultural parcels are specifically allowed by SB 236 in addition to the number of lots allowed by the county's definition of a minor subdivision. Remainder parcels are restricted to agricultural uses in perpetuity by SB 236. These remainder parcels may be re-subdivided but must remain in agricultural uses, which would also be noted on the minor final plat each time the parcel is further subdivided.

The amendments proposed to Subtitle 24 are intended to be narrowly focused to integrate SB 236 into the County Code.

11/20/2012: CB-104-2012 was amended on the floor as recommended by PZED Committee; CB-104-2012 (DR-2) was enacted.

CODE INDEX TOPICS:

INCLUSION FILES:
