

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2005, Legislative Day No. 38

Bill No. 77-05

Introduced by Mr. Dillon, Chairman
(by request of the County Executive)

By the County Council, September 19, 2005

Introduced and first read on September 19, 2005
Public Hearing set for October 17, 2005
Bill Expires January 19, 2006

By Order: Judy C. Holmes, Administrative Officer

A BILL ENTITLED

1 AN ORDINANCE concerning: Subdivision and Development
2
3 FOR the purpose of altering and adding certain definitions; altering a certain provision
4 establishing when an original developer lot is buildable; expanding the requirements
5 relating to pre-submission community meetings; amending certain provisions relating
6 to appeals to the Board of Appeals; altering and adding certain provisions pertaining
7 to County webpage notices; clarifying the applicability of required recreation area;
8 clarifying certain provisions relating to the use of amended record plats; requiring that
9 certain information relating to pre-submission community meetings be attached to site
10 development plans; exempting a certain type of development from a certain test for
11 adequate public facilities; clarifying a certain mitigation requirement in the Parole
12 Town Center Growth Management Area; modifying a certain exception to the
13 applicability of forest conservation requirements; adding, repealing, and altering
14 certain requirements relating to forest mitigation banks; modifying the requirements
15 for execution of a forestation agreement; adding a certain provision relating to
16 abandonment of forest conservation easements; adding certain provisions relating to
17 the payment of certain monies into the Forest Conservation Fund; adding certain
18 requirements relating to the size of certain parking spaces; providing certain
19 exceptions to security requirements for a public works agreement; altering certain
20 provisions regarding certain conflicts among certain requirements; repealing
21 provisions pertaining to commercial revitalization areas; clarifying the applicability
22 of certain provisions relating to condominiums; modifying certain provisions relating
23 to the Incentive Program in the Parole Town Center Growth Management Area;
24 adding, repealing, and clarifying certain fees to be paid and security to be given under

EXPLANATION: CAPITALS indicate new matter added to existing law.
[Brackets] indicate matter stricken from existing law.

1 certain circumstances; making certain stylistic, technical, and formatting changes to
2 the Subdivision and Development Article of the Anne Arundel County Code (1985,
3 as amended); and generally relating to subdivision and development.
4

5 By repealing: §§ 26-6-304(f), 26-7-401 through 26-7-403, inclusive, and the subtitle
6 “Subtitle 4. Commercial Revitalization Areas” (all as amended by Bill No. 3-05)
7 Anne Arundel County Code (1985, as amended)
8

9 By repealing and reenacting, with amendments: §§ 26-1-101(45), (46), and (58); 26-2-
10 105(b); 26-2-107(a) and (b); 26-2-109; 26-2-110 (as amended by Bill No. 20-05); 26-
11 3-506(c); 26-3-801; 26-4-201(c)(13); 26-5-201(b); 26-5-901(c)(1) and (2); 26-6-
12 301(b)(7); 26-6-307; 26-6-308(a); 26-6-602; 26-6-702; 26-7-101; 26-7-501; 26-7-
13 903(b); and 26-10-101(all as amended by Bill No. 3-05)
14 Anne Arundel County Code (1985, as amended)
15

16 BY adding: §§ 26-1-101(58) and 26-6-304(f) (all as amended by Bill No. 3-05)
17 Anne Arundel County Code (1985, as amended)
18

19 BY renumbering: § 26-1-101(58) through (65), respectively to be § 26-1-101(59) through
20 (66), respectively; § 26-7-501 and the subtitle “Subtitle 5. Condominiums” to be §
21 26-7-401 and the subtitle “Subtitle 4. Condominiums”; §§ 26-7-601 through 26-7-
22 608, respectively, and the subtitle “Subtitle 6. Mixed Use Development Under the
23 Optional Method of Development” to be §§ 27-7-501 through 26-7-508, respectively,
24 and the subtitle “Subtitle 5. Mixed Use Development Under the Optional Method of
25 Development”; § 26-7-701 and the subtitle “Subtitle 7. Certain Multifamily
26 Dwellings” to be § 26-7-601 and the subtitle “Subtitle 6. Certain Multifamily
27 Dwellings”; §§ 26-7-801 through 26-7-804, respectively, and the subtitle “Subtitle 8.
28 Odenton Growth Management Area District” to be §§ 26-7-701 through 26-7-704,
29 respectively, and the subtitle “Subtitle 7. Odenton Growth Management Area
30 District”; §§ 26-7-901 through 26-7-906, respectively, and the subtitle “Subtitle 9.
31 Parole Town Center Growth Management Area” to be §§ 26-7-801 through 26-7-806,
32 respectively, and the subtitle “Subtitle 8. Parole Town Center Growth Management
33 Area; §§ 26-7-1001 through 26-7-1004, respectively, and the subtitle “Subtitle 10.
34 Planned Unit Development” to be §§ 26-7-901 through 26-7-904, respectively, and
35 the subtitle “Subtitle 9. Planned Unit Development”; and § 26-7-1101 and the subtitle
36 “Subtitle 11. Small Business Districts” to be § 26-7-1001 and the subtitle “Subtitle
37 10. Small Business Districts” (all as amended by Bill No. 3-05)
38 Anne Arundel County Code (1985, as amended)
39

40 SECTION 1. *Be it enacted by the County Council of Anne Arundel County,*
41 *Maryland,* That §§ 26-6-304(f), 26-7-401 through 26-7-403, inclusive, and the subtitle
42 “Subtitle 4. Commercial Revitalization Areas”, Anne Arundel County Code (1985, as
43 amended) (as amended by Bill No. 3-05), be and hereby are repealed.
44

45 SECTION 2. *And be it further enacted,* That § 26-1-101(58) through (65) is hereby
46 renumbered to be § 26-1-101(59) through (66), respectively; § 26-7-501 and the subtitle
47 “Subtitle 5. Condominiums” is hereby renumbered to be § 26-7-401 and the subtitle
48 “Subtitle 4. Condominiums”; §§ 26-7-601 through 26-7-608, respectively, and the

1 subtitle “Subtitle 6. Mixed Use Development Under the Optional Method of
2 Development” are hereby renumbered to be §§ 27-7-501 through 26-7-508, respectively,
3 and the subtitle “Subtitle 5. Mixed Use Development Under the Optional Method of
4 Development”; § 26-7-701 and the subtitle “Subtitle 7. Certain Multifamily Dwellings” is
5 hereby renumbered to be § 26-7-601 and the subtitle “Subtitle 6. Certain Multifamily
6 Dwellings”; §§ 26-7-801 through 26-7-804, respectively, and the subtitle “Subtitle 8.
7 Odenton Growth Management Area District” are hereby renumbered to be §§ 26-7-701
8 through 26-7-704, respectively, and the subtitle “Subtitle 7. Odenton Growth
9 Management Area District”; §§ 26-7-901 through 26-7-906, respectively, and the subtitle
10 “Subtitle 9. Parole Town Center Growth Management Area” are hereby renumbered to be
11 §§ 26-7-801 through 26-7-806, respectively, and the subtitle “Subtitle 8. Parole Town
12 Center Growth Management Area; §§ 26-7-1001 through 26-7-1004, respectively, and
13 the subtitle “Subtitle 10. Planned Unit Development” are hereby renumbered to be §§ 26-
14 7-901 through 26-7-904, respectively, and the subtitle “Subtitle 9. Planned Unit
15 Development; and § 26-7-1101 and the subtitle “Subtitle 11. Small Business Districts” is
16 hereby renumbered to be § 26-7-1001 and the subtitle “Subtitle 10. Small Business
17 Districts”, Anne Arundel County Code (1985, as amended) (all as amended by Bill No.
18 3-05)

19
20 SECTION 3. *And be it further enacted*, That Section(s) of the Anne Arundel County
21 Code (1985, as amended) read as follows:

22 ARTICLE 26 SUBDIVISION AND DEVELOPMENT

23 TITLE 1. DEFINITIONS

24 26-1-101. Definitions.

25
26
27 Unless defined in this article, the definitions of words defined elsewhere in this Code
28 apply in this article. The following words have the meanings indicated:

29 (45) “Minor subdivision” means:

30 (I) an agricultural preservation subdivision; or

31 (II) a subdivision NOT PREVIOUSLY SHOWN ON A RECORD PLAT APPROVED BY
32 THE COUNTY AND involving no more than five lots for single-family detached dwellings
33 for which the extension of public roads, water, or sewer is not required.

34 (46) “Natural features” means floodplains, slopes OF 15% OR GREATER, soil types,
35 streams, tidal and nontidal wetlands, and vegetation.

36 (58) “SLOPE” MEANS AN INCLINE THAT IS NOT MANMADE AND THAT HAS AN
37 ONSITE AND OFFSITE CONTIGUOUS AREA THAT IS GREATER THAN 5,000 SQUARE FEET
38 OVER 10 FEET VERTICAL AS MEASURED BEFORE DEVELOPMENT.

39 [(58)](59) “Steep slope” means a 25% or greater slope [that is not a manmade
40 slope and that has an onsite and offsite contiguous area that is greater than 5,000 square
41 feet over 10 feet vertical as measured before development].

TITLE 2. GENERAL PROVISIONS

26-2-105. Original developer lots.

(b) **Requirement.** An original developer lot is not a buildable lot unless and until the owner [initiates] COMPLETES subdivision under this article.

26-2-107. Pre-submission community meeting.

(a) **Scope.** This section applies to [all subdivisions] A SUBDIVISION of property that [adjoin] ADJOINS a residentially zoned and developed lot AND TO A SITE DEVELOPMENT PLAN FOR COMMERCIAL OR INDUSTRIAL DEVELOPMENT THAT ADJOINS A RESIDENTIALLY ZONED AND DEVELOPED LOT.

(b) **Meeting required.** Within the six-month period before the submission of a [sketch plan or, for a minor subdivision, a final plan] SUBDIVISION OR SITE DEVELOPMENT PLAN THAT FALLS WITHIN THE SCOPE OF THIS SECTION, a developer shall hold a community meeting for the purpose of allowing the developer to present information regarding the [subdivision] DEVELOPMENT and allowing the community to ask questions or provide comments.

26-2-109. Appeal.

(A) **When allowed.** A person aggrieved by the approval or denial of [an application for] a modification, [an application for] THE APPROVAL OR DENIAL OF A sketch plan [approval], or [an application for] THE APPROVAL OR DENIAL OF A final plan [approval] may file an appeal to the Board of Appeals.

(B) **Rebuttable presumption.** There shall be a rebuttable presumption that the approval or denial by the Office of Planning and Zoning was lawful and correct.

(C) **Issues on appeal.** THE BOARD OF APPEALS MAY NOT:

(1) HEAR OR DECIDE IN AN APPEAL FROM THE APPROVAL OR DENIAL OF A FINAL PLAN ISSUES THAT WERE DECIDED IN THE APPROVAL OR DENIAL OF A SKETCH PLAN BUT NOT APPEALED; OR

(2) RECONSIDER IN AN APPEAL FROM THE APPROVAL OR DENIAL OF A FINAL PLAN ISSUES THAT WERE DECIDED IN AN APPEAL FROM THE APPROVAL OR DENIAL OF A SKETCH PLAN.

26-2-110. County webpage notices.

The Office of Planning and Zoning [shall] regularly [submit notices to the Office of the County Executive who shall place them on the Anne Arundel County Webpage for posting. The notices shall include] SHALL CAUSE NOTICE OF THE FOLLOWING TO BE POSTED ON THE COUNTY'S WEBPAGE:

[(a)] (1) [subdivision] applications FOR SUBDIVISION;

TITLE 4. SITE DEVELOPMENT

26-4-201. Site development plan.

(c) **Attachments.** A site development plan shall be accompanied by all information required by the office of Planning and Zoning, including to the extent applicable:

(13) evidence that a PRE-SUBMISSION community meeting was held [and a summary of comments received]; A COPY OF A SUMMARY OF COMMENTS RECEIVED; AND EVIDENCE THAT A COPY OF THE SUMMARY OF COMMENTS WAS MAILED TO EACH PARTICIPANT AT THE PRE-SUBMISSION COMMUNITY MEETING, TO ALL LOT OWNERS WITHIN 175 FEET OF THE PROPERTY TO BE DEVELOPED, AND TO THE COUNTY COUNCILMEMBER OF THE COUNCILMANIC DISTRICT WHERE THE PROPERTY IS LOCATED AND, IF THE PROPERTY ABUTS ANOTHER COUNCILMANIC DISTRICT, TO THAT COUNTY COUNCILMEMBER.

TITLE 5. ADEQUATE PUBLIC FACILITIES

26-5-201. Requirement to pass adequacy of public facilities tests; exemptions.

(b) **General requirement.** The Planning and Zoning Officer may not give final approval to a record plat, recommend approval of an application for a building or grading permit in connection with a site development plan, or approve a site development plan for development that does not require a permit unless the development passes the tests for adequate public facilities set forth in this title if required by the chart in this section. A bulk parcel shall pass the tests for adequate public facilities to the same extent that would have been required by the chart in this section had the parcel been tested for adequate public facilities in the subdivision process that created the parcel.

The chart uses the following key: S = subject to the test and E = exempted from the test.

Development Type	Fire Suppression	Roads	Schools	Sewage Disposal	Storm Drain	Water Supply
Non-Residential:						
Odenton Growth Management Area: nonresidential developments other than building additions of less than 1,000 square feet and tenant improvements	S	E but subject to the requirements in the Odenton Town Center Master Plan	[S]E	S	S	S

1 **26-5-901. Mitigation.**

2
3 (c) **Parole Town Center Growth Management Area.** In the Parole Town Center,
4 mitigation consists of one or more of the following as directed by the Office of Planning
5 and Zoning:

6
7 (1) improvements to each substandard intersection THAT WILL HAVE A POSITIVE
8 EFFECT ON THE SUBSTANDARD INTERSECTION;

9
10 (2) construction of or improvements to one or more road links that will have a
11 positive effect on [the] EACH substandard intersection;

12
13 TITLE 6. GENERAL DEVELOPMENT PROVISIONS

14
15 **26-6-301. Scope.**

16
17 (b) **Exceptions.** This subtitle does not apply to:

18
19 (7) [activity conducted] RESIDENTIAL CONSTRUCTION on a single lot of any size
20 or a linear project if:

21
22 (i) the [activity] RESIDENTIAL CONSTRUCTION OR LINEAR PROJECT does not
23 result in the cutting, clearing, or grading of more than 40,000 square feet of forest; and

24
25 (ii) the [activity on the lot] RESIDENTIAL CONSTRUCTION or linear project will
26 not result in the cutting, clearing, or grading of any forest that is subject to the
27 requirements of a previous forest conservation plan prepared under this subtitle;

28
29 **26-6-304. Afforestation and reforestation generally.**

30
31 [(f) **Offsite afforestation, reforestation.** Offsite afforestation or reforestation banks
32 shall be designated in advance by the Office of Planning and Zoning.]

33
34 (F) **Forest mitigation banks.** IF REFORESTATION OR AFFORESTATION
35 REQUIREMENTS CANNOT REASONABLY BE ACCOMPLISHED ONSITE OR OFFSITE, THE
36 OFFICE OF PLANNING AND ZONING MAY ALLOW THE USE OF CREDITS FROM AN
37 APPROVED FOREST MITIGATION BANK. FOREST MITIGATION BANKS SHALL BE LOCATED
38 AS REQUIRED BY THE NATURAL RESOURCES ARTICLE, § 5-1610.1, OF THE STATE CODE
39 AND SHALL MEET THE REQUIREMENTS SET FORTH AT COMAR 08.19.03.01, ARTICLES X-1
40 AND X-2. A FOREST MITIGATION BANK MAY NOT BE USED UNLESS APPROVED IN
41 ADVANCE BY THE OFFICE OF PLANNING AND ZONING.

42
43 **26-6-307. Agreements.**

44
45 (A) **Forestation agreements and forest conservation easements.** A developer shall
46 execute a forestation agreement FOR PLANTING, REPLANTING, REFORESTATION, OR
47 AFFORESTATION IN AREAS OF 1,000 SQUARE FEET OR MORE. A DEVELOPER ALSO SHALL
48 EXECUTE [and] a forest conservation easement[. A forest conservation], AND THE

1 easement shall be located in areas that are at least 35 feet wide with a total area of at least
2 10,000 square feet. The easement may be located on any open space lot created under §
3 26-3-506 of this Code, but it may not otherwise be located on a residentially zoned lot of
4 less than 10 acres.

5
6 **(B) Abandonment of forest conservation easements.** IF A PROPERTY OWNER
7 BELIEVES THAT IT IS APPROPRIATE FOR THE COUNTY TO ABANDON A FOREST
8 CONSERVATION EASEMENT, THE OWNER SHALL FILE A REQUEST WITH THE OFFICE OF
9 PLANNING AND ZONING THAT EXPLAINS WHY THE ABANDONMENT IS BELIEVED TO BE
10 APPROPRIATE. THE COUNTY MAY ABANDON THE EASEMENT IF (1) THE PLANNING AND
11 ZONING OFFICER AGREES THAT ABANDONMENT IS APPROPRIATE; (2) THE PROPERTY
12 OWNER PAYS INTO THE FOREST CONSERVATION FUND THE FEE REQUIRED BY TITLE 10
13 OF THIS ARTICLE; AND (3) AN AMENDED RECORD PLAT AND OTHER APPROPRIATE
14 DOCUMENTATION, IN A FORM ACCEPTABLE TO THE COUNTY, ARE RECORDED AMONG
15 THE LAND RECORDS.

16
17 **26-6-308. Forest Conservation Fund.**

18
19 **(a) Time frame for spending.** [Money] EXCEPT FOR MONEY PAID IN CONNECTION
20 WITH THE ABANDONMENT OF AN EASEMENT UNDER § 26-6-307(B), MONEY paid into the
21 County's Forest Conservation Fund shall be spent within two years after receipt or three
22 growing seasons, whichever is longer. If not spent within that time frame, the money
23 shall be returned to the person who made the payment, except that if the Office of
24 Planning and Zoning makes two good faith attempts to locate the person and those
25 attempts fail, the money shall be forfeited to the Fund. MONEY PAID UNDER § 26-6-307(B)
26 MAY NOT BE RETURNED.

27
28 **26-6-602. Size of parking spaces.**

29
30 The size of a parking space shall be as follows:

31

32 Compact car parking space	8.5' by 16'
33 Non-compact car parking space	9.0' by 18'
34 PARALLEL PARKING SPACE	8.0 BY 22'
35 Loading space	15.0 by 36'

36

37 **26-6-702. Security.**

38
39 **(A) Generally.** [A] EXCEPT AS PROVIDED IN SUBSECTION (B), A public works
40 agreement and forestation agreement shall be accompanied by security in the amount
41 required by Title 10 of this article. The security shall be in the form of a cash deposit,
42 certified check, cashier's check, irrevocable letter of credit, or bond from a bonding
43 company or financial institution acceptable to the County. When security is required to be
44 in the amount of the estimated cost of improvements, the developer shall provide to the
45 Office of Planning and Zoning for its consideration and approval a cost estimate for
46 completion of the improvements required by the agreement.

47
48 **(B) Exceptions.** A PUBLIC WORKS AGREEMENT FOR MINOR UTILITY WORK, AS
49 DETERMINED BY THE COUNTY, OR FOR A MAYO TANK SYSTEM NEED NOT BE
50 ACCOMPANIED BY SECURITY.

1 TITLE 7. DEVELOPMENT REQUIREMENTS
2 FOR PARTICULAR TYPES OF DEVELOPMENT
3

4 **26-7-101. Scope.**
5

6 This title applies to the particular types of development specified and is in addition to
7 other requirements of this Code. If a provision of this title conflicts with [other] ANY
8 requirements of this [Code] ARTICLE OTHER THAN THOSE CONTAINED IN TITLES 8 AND 9,
9 the provisions of this title prevail.
10

11 [SUBTITLE 4. COMMERCIAL REVITALIZATION AREAS
12

13 **26-7-401. Scope.**
14

15 This subtitle applies to commercial revitalization areas as shown on a map adopted by
16 the County Council, except that this subtitle does not apply to the commercial
17 revitalization area shown as Area H.
18

19 **26-7-402. Characteristics.**
20

21 (a) **Inability to sell or rent for prior 12 months.** Prior to development in a
22 commercial revitalization area, the Planning and Zoning Officer shall require evidence
23 that the lot has been advertised for sale or lease for the preceding 12 months and that
24 there has been a lack of interest in it for that period.
25

26 (b) **Square footage of existing buildings.** A lot proposed for development in a
27 commercial revitalization area shall have existing buildings on the site totaling at least
28 25,000 square feet.
29

30 (c) **Structure requirements.** The primary structure or more than 50% of the total
31 square footage of existing structures shall:
32

33 (1) have been in existence for at least five years from the date a certificate of use
34 was issued for the structure or a principal use;
35

36 (2) have been used for one or more commercial uses; and
37

38 (3) be vacant or leased on a temporary basis.
39

40 **26-7-403. Design.**
41

42 The design of a lot developed as a business complex or as a combination of
43 commercial and residential uses shall meet the integrated plan of development
44 requirements for mixed use projects.]
45

46 **[26-7-501]26-7-401. Condominiums of single-family detached dwellings.**

1 A site proposed for development WITH SINGLE-FAMILY DETACHED DWELLINGS under
 2 a condominium form of ownership need not be subdivided, but the development shall
 3 otherwise comply with all requirements of this Code as if lot lines existed. To comply
 4 with lot size requirements, structures shall be located on a discrete area of land that is
 5 equivalent in size to the lot size required for the use under other forms of ownership.

6
 7 **26-7-903. Incentive program.**

8
 9 (b) **When may be granted.** The Planning and Zoning Officer may grant increased
 10 FAR, height, reduced open areas, or other modifications to THE requirements of THIS
 11 ARTICLE OR ARTICLE 27 OF this Code when an applicant proves that an equitable
 12 relationship exists between the applicant’s gain and the public benefit within the Parole
 13 Town Center Growth Management Area.

14
 15 TITLE 10. FEES AND SECURITY

16
 17 **26-10-101. Fees and security.**

18
 19 The following fees shall be paid and security given as provided in the following chart,
 20 except that fees paid on an application governed by the law as it existed prior to the
 21 effective date of Bill No. 3-05 shall be credited against the fees in the following chart if
 22 the application is withdrawn and a new application is filed under this article:
 23

Category	Fee or Security
FEE FOR ABANDONMENT OF FOREST CONSERVATION EASEMENT	\$1.00 PER SQUARE FOOT OF CONSERVATION EASEMENT ABANDONED
Fee-in-lieu of planting FOR LAND outside the critical area	\$0.50 per square foot
Fee-in-lieu of planting FOR LAND inside the critical area for 30% or less of forest area cleared	\$1.20 per square foot of forest area cleared
Inspection fees	Public works agreement: 7% of the cost of the improvements [Landscaping] FORESTATION AGREEMENT: 7% of the cost of the installed plant materials [and non-plant improvements]

[Security for replanting in the critical area]	[\$1.20 per square foot]
Security for completion of public improvements or forestation	Public works agreement: amount equal to approved cost estimate Forestation agreement: amount equal to approved cost estimate OUTSIDE THE CRITICAL AREA OR \$1.20 PER SQUARE FOOT INSIDE THE CRITICAL AREA

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SECTION 4. *And be it further enacted*, That those parts of a section or subsection of the Anne Arundel County Code (1985, as amended) that are not set forth in Section 3 of this Ordinance are not affected by this Ordinance, it specifically being the intent of the County Council to repeal, renumber, and repeal and reenact only those parts of sections or subsections affected by this Ordinance.

SECTION 5. *And be it further enacted*, That this Ordinance shall take effect 45 days from the date it becomes law.