

COUNTY ORDINANCE NO. 06-09

A BILL ENTITLED

AN ACT CONCERNING Amendments to the Provisions Regarding Noncontiguous Development;

FOR THE PURPOSE of amending Section 18:1-98 of the Code of Public Local Laws of Queen Anne's County, Maryland to reduce the minimum open space ratio for developed parcels in a noncontiguous development to .15; revising the provisions on net buildable area and open space in connection with noncontiguous development and providing an exemption to screening requirements for parcels with an existing 50' wide forest area.

BY AMENDING Section 18:1-98 of the Code of Public Local Laws of Queen Anne's County, Maryland.

SECTION I

BE IT ENACTED BY THE COUNTY COMMISSIONERS OF QUEEN ANNE'S COUNTY, MARYLAND that Section 18:1-98 of the Code of Public Local Laws be repealed and readopted to read as follows:

ARTICLE XIX Noncontiguous Development

...

§ 18:1-98. Application and standards.

- A. *Development plan.* A landowner or group of landowners whose *lots* are in the same zoning district, but are not contiguous, may file a *development plan* under Part 7 of this Chapter 18:1 in the same manner as the owner of a single *lot*. The decision to use the noncontiguous *development* technique must be made at the time of the initial *major subdivision* application.
- B. *Open space.*
 - (1) The *open space* ratio of the appropriate district shall apply to all land within the overall *development plan*, rather than separately to the *developed parcel* and *noncontiguous parcel*.
 - (2) The minimum open space ratio for the developed parcel is ~~.50~~.15. All said 15% open space shall be community owned. Open space in excess of 15% may be retained by the developer for future development or agriculture use.

- (3) Net buildable area and open space.
- (a) After the date of adoption of this Chapter 18, if a landowner proposes a noncontiguous *development*, pursuant to this article, the *net buildable area* and *open space* on the *developed parcel* ~~may~~ must be identified and set aside only in accordance with the following two-step phasing schedule: on preliminary plan filed, which shall show the proposed configuration of future phases.

	Developed Parcel — Net Buildable Area	Developed Parcel — Open Space
Phase 1	Not to exceed 0.30	Minimum of 0.50
Phase 2	Not to exceed 0.50	Minimum of 0.50

- (b) The open space provided on the developed parcel during ~~Phase 1~~ the First Phase of the development shall be labeled "Noncontiguous Open Space Phase 1" and may be reduced and administratively reconfigured during ~~Phase 2~~ future Phases of the project as necessary.

C. Base site area. For the purpose of computing base site area, the area of the noncontiguous parcel and the developed parcel shall be combined.

D. Density and lot line setbacks.

- (1) The developed parcel shall use a density of no more than 0.9 of a dwelling unit per acre.
- (2) For any developed parcel 50 acres in area or less, all new lots shall be located at least 100 feet from the property lines of the developed parcel as they existed prior to submittal of the development plan.
- (3) For any developed parcel greater than 50 acres in area, all new lots shall be located at least 50 feet from the property line of the developed parcel as they existed prior to submittal of the development plan.
- (4) All new lots on a developed parcel shall be located at least 100 feet from the nearest public road that exists prior to submittal of the development plan.

E. Developed parcel screening requirements:

- (1) A planted tree buffer at least 50 feet in width shall be installed between the developed portion of the parcel and any adjacent farm operation or tillable and pasture land and any public road, unless an existing forest, 50 wide exists and is to be preserved.
- (2) A qualified professional or licensed forester shall design the planting scheme for the buffer area in accordance with the following:
 - (a) For every 100 linear feet of buffer, the developer shall plant:
 - [1] Seven *canopy trees*.
 - [2] Fifteen *understory trees* or large shrubs; and
 - [3] Thirty small shrubs
 - (b) The buffer shall be planted according to sound nursery practices with the following specifications:
 - [1] The minimum required size of canopy trees at the time of planting shall be three-quarters-inch to one-inch caliper measured four inches above the root ball. Understory and evergreen trees shall be at least three feet tall at the time of planting.
 - [2] The canopy tree planting shall include at least four different species and trees must be expected to attain a height of at least 50 feet at maturity.
 - [3] Drought-resistant native trees and plants shall be used whenever feasible.
 - [4] Plants shall be nursery grown in accordance with good horticultural practices and grown under local climatic conditions.
 - [5] The State of Maryland's Noxious Weed Law must be adhered to during the planting and maintenance of the planted tree buffer.
 - [6] Plants shall be installed with intact root balls. Properly installed guy wires shall be provided for canopy and understory trees so that they stand plumb after planting. The

trees shall bear the same relation to finished grade as they bore to grade at the nursery where grown.

[7] Planting soil (backfill mix) must be five parts topsoil and one part wet loose peat moss. All plants shall be well watered after installation.

[8] The installation shall be supervised by a qualified professional or licensed forester.

(c) A performance guarantee, secured by a bond, cash deposit or letter of credit from the developer, shall be provided, ensuring survival of the plantings for two years after installation.

(3) The screening provisions of this section may be used to meet the provisions of the Forest Conservation Act and may not be required when there is an existing mature forest located between the proposed development and any farm operation, tillable or pasture land, and any public road provided that the mature forest is identified by a forest stand delineation and will be protected by a long-term protective agreement in accordance with the provisions of Chapter 18:2, Forest Conservation, or where an existing mature forest at least 50 wide exists on the adjacent land.

F. Resource protection land. Natural resources shall be protected at the required percentage on the developed parcel and noncontiguous parcels.

(1) Total resource protection land shall be calculated for the developed parcel and noncontiguous parcel, as if combined.

(2) Natural resources shall be protected at the required percentage on the developed parcel and noncontiguous parcels, as if combined.

G. Noncontiguous parcel.

(1) May be less than all of a lot of record, however, the area of the noncontiguous parcel used must be at least 40 acres in size or constitute at least 1/2 of the total area of the lot of record, whichever is less.

(2) Meets the following soils criteria as per the 1966 Soils Survey of Queen Anne's County:

(a) At least 50% of the land shall classify as Class

- I, II or III soils; or
- (b) If the land is wooded, 50% of the land is classified as woodland Group 1 or 2; or
 - (c) If there is an insufficient percentage of Class I, II or III soils alone and there is an insufficient percentage of woodland Group 1 or 2 soils alone, the land must have a combination of the classifications that meets or exceeds 60%.
- (3) Plats of the noncontiguous parcel must provide the location of all existing buildings.
- (4) Upon approval of a development plan, the noncontiguous parcel:
- (a) May not be subdivided or reconfigured;
 - (b) Shall be deemed open space and shall be limited to only those uses allowed pursuant to Column A of the open space table in § 18:1-12 of this Chapter 18:1; and
 - (c) Shall not be used in connection with any determination of site area or density, except as may be necessary in determining the amount of deed restricted open space required by the development plan.

SECTION II

BE IT FURTHER ENACTED, that this Bill shall take effect on the forty-sixth (46th) day following its passage.

INTRODUCED BY: Ben Cassell by request of a citizen

DATE: July 11, 2006

PUBLIC HEARING HELD: August 15, 2006 @ 7:30 p.m.

VOTE: 0 Yea 5 Nay

DATE OF ADOPTION: Failed