

ORDINANCE NO.: 144
INTRODUCED: SEPTEMBER 8, 1998
PUBLIC HEARING: SEPTEMBER 24, 1998
ENACTED: DECEMBER 7, 1998
EFFECTIVE: DECEMBER 7, 1998

COMMISSIONERS OF POOLESVILLE

AN ORDINANCE of the Town of Poolesville, Maryland to repeal Appendix A of the Poolesville Code, title "Subdivision Regulations" and enact in its place a new Appendix A, title "Subdivision Regulations" for the purpose of making the administration of the Subdivision Regulations comport with past practice and State Law; deleting archaic language and making the regulations simpler in understanding and operation; placing site plan criteria in said regulations; defining the duties of Town officials and developers under the regulations; clarifying that the Planning Commission shall be the sole body responsible for approval of record plats and other planning functions; establishing the process for filing and approval of preliminary plats and the recordation of final plats of subdivision; providing for the dedication and reservation of streets and other property; requiring that adequate public facilities exist for land proposed to be subdivided; establishing standards for the construction of proposed streets and roads; requiring reforestation; providing standards for development by cluster subdivision; regulating non-tidal wetland, flood plains and unsafe land; establishing a procedure for creating and enforcing (by bond, etc.) public improvement agreements; and providing a procedure for granting variances from the strict application of said regulations.

BE IT ORDAINED, by the Commissioners of Poolesville, Maryland that

Section 1. The Code of Poolesville be, and the same is hereby amended by repealing Appendix A of the Poolesville Code, title "Subdivision Regulations", and enacting a new Appendix A with the same title, to read as follows:

APPENDIX A
SUBDIVISION REGULATIONS

Art. I. In General §§ 1-6

Art. II. Plats, §§ 7-18

Art. III. Subdivision Regulations-Generally, §§ 19-38

ARTICLE I. IN GENERAL

Sec. 1. Definitions.

For the purposes of this Ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section. The gender set forth herein shall be masculine or feminine, as appropriate from the context. All terms used in this Ordinance which are defined in the Poolesville Zoning Ordinance or the Montgomery County Road Construction Code shall have the same meaning as the definition therein, unless otherwise defined herein.

Building: Any structure, as defined, having a roof.

Building permit: References to "building permits" shall be deemed to include the Zoning Code Compliance Permit as issued by the Town through the Planning Commission, as well as the actual building permit as issued by Montgomery County, Maryland.

Commission: See Planning Commission

Commissioners of Poolesville: The elected governing body of the Town of Poolesville.

Development: The act of building structures and installing site improvements, both public and private.

Developer or subdivider and/or applicant: An individual, partnership or corporation (or agent therefor) that undertakes the subdivision of land or the activities covered by this Ordinance, particularly the drawing up and submission of a subdivision plat showing the layout of the land and the public improvements required thereon. The terms include all persons involved in successive stages of the project, even though such persons may change and ownership of the land may change. Each term includes the other.

Easement: A grant or reservation by the owner of land for the use of all or a portion of such by others, including the public, for a specific purpose or purposes, and which must be included in the conveyance of land affected by such easement. The usage of the word "easement," for land platting purpose in this Ordinance, means that such an easement area is included within the dimensions and areas of the lots or parcels through which the easement may run, and is not to be separated therefrom as in the case of a dedicated right-of-way.

Easement, slope: An easement to permit the creation and maintenance of slopes necessary to stabilize construction or to stabilize lands adjacent to construction.

Improvements, public: Public improvements include, but are not limited to the following: Roads and streets, grading, road pavement, curbs and gutters, sidewalks, pedestrian paths, water mains, sanitary sewer lines, water supply and sewage disposal, storm drainage lines and drainage structures, curb returns, sidewalk and driveway entrances in right-of-way, guard rails, retaining walls, sodding, planting, monuments, street lights and the like.

Liber and folio: Liber and folio number refers to book and page respectively, used in the land record recording system of Montgomery County.

Non-tidal wetlands: The CE (Federal Register 1982) and the EPA (Federal Register 1980) jointly define wetlands as: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Owner: A person or corporation holding a legal title in the land, but not including a mortgagee, a lienor, a lessee or a contract purchaser.

Pedestrian path or trail: A pedestrian access way (paved or unpaved) commonly located outside the right-of-way of a street or highway and within its own designated right-of-way or easement.

Plat-record: The drawing prepared by a licensed land surveyor for recording in the Land Records of Montgomery County in accordance with the specifications for same contained in this Ordinance and applicable State Law.

Plan: A plan of subdivision proposed or submitted by a subdivider, applicant or developer for approval by the Planning Commission.

Planning Commission: The Poolesville Planning Commission.

Preliminary plan: A plan for a proposed subdivision or resubdivision prepared and submitted for approval, in accordance with specifications and procedures provided herein, prior to preparation of a subdivision plat.

Right-of-way: A strip of land occupied or intended to be occupied by a road, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main or for other special use. The usage of the term "right-of-way" for land platting purposes in this Town shall mean that every right-of-way hereafter established and shown on a record plat is to be separate and distinct from the lots or parcels adjoining such right-of-way, and not included within the dimensions or areas of such other lots or parcels. Rights-of-way intended for roads, water mains, sanitary sewers, storm drains or other use involving maintenance by a public agency, shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

Road construction code: The Montgomery County Road Construction Code as heretofore enacted and as hereafter amended or re-enacted in the Montgomery County Code.

Sidewalk: A paved pedestrian access way commonly located within the street right-of-way and located parallel to the street.

Street, centerline of: A line established as a centerline of a street by any State, County, Town or other official agency or governing body having jurisdiction thereof and shown as such on an officially adopted or legally recorded map.

Street line: A line defining the edge of a street right-of-way and separating the street from abutting property or lots. If on a master plan of streets and highways duly adopted by the Commission, a street is scheduled for future widening, the proposed right-of-way line shown on the master plan shall be the street lines.

Street width: The shortest distance between street lines, measured at right angles to the centerline of the street.

Structure: Anything which is built or constructed, including accessory buildings, and appurtenances thereto, including but not limited to fences, children's playhouses, antennas or other permanent facilities which occupy space on a parcel of land.

Subdivider: See "Developer or Applicant."

Subdivision: The division or agglomeration of a lot, tract or parcel of land into one or more lots, plots, sites, tracts, parcels or other divisions for the purpose, whether immediate or future, of sale or building development, including resubdivision and, when appropriate to the context, relating to the process of subdividing or to the land or area subdivided; provided, that the definition of subdivision shall not include a one-time bona fide division or partition of exclusively agricultural land not for development purposes.

Town Clerk: The appointed Clerk of the Town of Poolesville.

Town Engineer: A licensed professional engineer and/or an associate in his firm, if any, appointed by the Commissioners of Poolesville to provide engineering, surveying and other similar services to the Town.

***Editor's note**-The subdivision ordinance of the Town, Ord.No. 59, adopted May 5, 1980, is set out in this Appendix as adopted. Due to the statutory requirements relative to the enactment and amendment of such an ordinance, incorporation thereof into a code of ordinances is not deemed advisable, hence its inclusion as an appendix hereto for the benefit and convenience of the user of this Code. Material enclosed in brackets has been inserted to correct obvious errors or to clarify the meaning where the same is ambiguous; however, obviously misspelled words have been corrected without notation.

Cross references - Building and Building regulations, Ch.4; fire prevention and protection, Ch.7; junk and junkyards, Ch.10; streets, sidewalks and public places, Ch.14; zoning regulations, App. B.

State law reference-Procedures for adoption of subdivision regulations, Anno. Code of Md., Art 66B, § 5.03.

Sec. 2. Purpose of Ordinance.

The purpose of this Ordinance is to provide for:

- A. The harmonious development of the Town in conformance with the Master Plan.
- B. Coordination of roads within the subdivisions with other existing, planned or platted roads or with other features of the Town and its environs or with the Town's Master Plan or with any road plan adopted or approved as a part of the Town's Master Plan.
- C. Adequate open spaces for traffic, recreation, light and air, or noise control by dedication or otherwise.
- D. Reservation of lands for schools and other public buildings and for parks, playgrounds and other public purposes.
- E. The conservation of or production of adequate transportation, water, drainage and sanitary facilities with special attention being given to the effect on the quality of and preservation of adequate underground water supply.
- F. The preservation of, the location of, and the volume and flow of water in and other characteristics of natural streams and other waterways.
- G. The avoidance of population congestion.
- H. The avoidance of such scattered or premature subdivision of land as would involve danger or injury to health, safety or welfare by reason of the lack of water supply, drainage, transportation or other public services or necessitate an excessive expenditure of public funds for the supply of such services.

- I. Conformity of resubdivided lots to the character of lots within an existing subdivision with respect to area, frontage and alignment to existing lots and streets.
- J. Control of subdivision or building (except for agricultural or recreational purposes) in flood plain areas of streams and drainage courses, other environmentally sensitive areas and on unsafe land areas.
- K. Preservation of outstanding natural or cultural features and historic sites or structures, as determined by the Town Commissioners.
- L. Other benefits to the health, comfort, safety or welfare of the present and future population of the Town of Poolesville.
- M. Preservation of forests and significant trees.

Sec. 3. Applicability of Ordinance.

This Ordinance shall apply to the development of any land within the Town limits of the Town of Poolesville, as shown on the official Town Zoning Map or as may hereafter be changed or amended.

Sec. 4. Administration of Ordinance.

The following officials of the Town of Poolesville shall be responsible for the administration of this Ordinance and shall have the responsibilities set forth below and such others that are related thereto or are otherwise specified by law:

- A. Commissioners of Poolesville:
 - 1. Consideration of subdivision, zoning text amendments and related legislation proposed by the Planning Commission, pursuant to State Code (Article 66B as amended).
 - 2. Initiation of appropriate proceedings to enforce the provisions of this ordinance.

B. Planning Commission:

1. Receive, file and check for compliance with all applicable regulations for preliminary and final plats.
2. Give preliminary and final approval or disapproval of all subdivision plats submitted.
3. Make all other determinations required by the regulations herein.
4. Perform all the duties authorized by the Annotated Code of Maryland, 1957, Art. 66B and/or Town Charter as amended.
5. Consideration of all plans submitted by a subdivider or developer including, but not limited to, preliminary subdivision plans, final plans, water, sewer, storm drain, paving plan, grade establishment plan, landscaping plan, sediment and erosion control plan, stormwater management plan, forest conservation plan and other plans related to subdivision and development.
6. Review and offer recommendations to the Commissioners of Poolesville on all land use issues.

C. Town Clerk:

1. Maintain permanent and current records of this Ordinance, including amendments thereto.
2. Receive and record in the Town Plat Book all final subdivision plats approved by the Poolesville Planning Commission and recorded amongst the land records of Montgomery County.

D. Town Engineer:

1. Review all proposed plats and plans and provide recommendations to the Planning Commission.
2. Forward copies of the preliminary and final plats to other Town, County and State offices and agencies for their recommendation and reports wherever appropriate.

E. Board of Parks, Recreation and Streets provides recommendations to the Planning Commission:

1. On public sites and adequate open spaces.
2. On adequate recreational facilities and locations.
3. Landscape and forest conservation plans.
4. Traffic calming devices.

Sec. 5. Effect of Ordinance on other ordinances, etc.

This ordinance shall not be deemed to repeal or modify or otherwise affect in any manner any other ordinance, resolution, rule or regulation of the Town; provided, that wherever this ordinance imposes more stringent regulations, restrictions, limitations or requirements, the provisions of this ordinance shall prevail.

Sec. 6. Enforcement of Ordinance.

Violations of this Ordinance shall be prosecuted, and compliance therewith enforced, in accordance with the applicable ordinances of the Town as authorized by Section 7.01 of Article 66B of the 1957 Annotated Code of Maryland as amended.

ARTICLE II. PLATS**Sec. 7. Recording-Generally.**

Whenever the owner of land in the Town shall subdivide his land for building sites, streets, lanes or any other purpose, or whenever any street, avenue, public road or land shall be required by condemnation or otherwise by the State, County or Town or by any other person or body corporate, which requires a plat by the laws of this State to be recorded shall present same to the Poolesville Planning Commission for its approval. Once final approval is obtained then the owner shall promptly cause the plat to be recorded amongst the land records of Montgomery County and shall promptly thereafter submit to the Town Clerk for recordation in the Town's Plat Book.

Sec. 8. Same-Filing and approval of plats.

Whenever any subdivision or re-subdivision of land is proposed to be made within the Town, and before any contract for the sale of or any offer to sell such subdivision is made, or before any development or construction of any building takes place within a subdivision or any part thereof, the applicant thereof or his agent shall file, in accordance with procedures prescribed in this ordinance, a plat of the proposed subdivision with the Planning Commission, for its approval. The approved record plat shall be recorded in the land records of the County, except as provided in Section 9 (Exceptions to Platting Requirements).

Sec. 9. Exceptions to platting requirements.

Recording of a subdivision plat under this ordinance shall not be required in the following cases:

- A. Agriculture. A one-time bona fide division or partition of exclusively agricultural or timber land not for any purpose other than continuing the present agricultural or timber use.
- B. Court action. Partition of lands by will or through action of a court of competent jurisdiction unless or until development of the lands is proposed.
- C. Public taking. Where a property has been changed in size or shape subsequent to the date of its inclusion within the Town, by reason of the taking of a part of such property for public use by reference to a properly drawn and recorded plat, such as a right-

of-way plat; provided, that the outlines and dimensions of such remainder may be clearly determined by reference to the previously recorded plats.

- D. Adjoining properties. The sale or exchange of parcels of land between owners of adjoining properties provided that:
1. The purpose of the transfer is merely to add to existing holdings and/or create a buildable lot provided that any future subdivision of this land shall be subject to approval in accordance with this Ordinance, and
 2. The transfer of land will not cause the original parcel or lot to be reduced below the minimum size required by this Ordinance or the Zoning Ordinance.
- E. Utility right-of-ways. A bona fide division of a tract of land in order that one or more of the resulting parcels may be used as part of public utility right-of-ways; provided, that if a parcel resulting from such division is ever to be used as a building site for other than public utility right-of-ways, then before a building permit may be issued for such other use, a plat must be filed and recorded.

Sec. 10. Dedications to public use; area in square feet to be shown.

No plat showing or containing a dedication of property to public use, for any purpose whatsoever, shall be recorded or accepted for recording after the effective date of this section, unless there shall be stated thereon, in square feet, the total amount of land dedicated to public use thereby.

Sec. 11. Filing; fees; indexing, etc.

The maker of any plat when the same shall be presented for record (after recordation amongst the land records of Montgomery County) shall furnish to the Town Clerk a copy of such plat, with a direction, endorsed thereon and signed by the owner of the land subdivided, to be recorded in the Town's "substance records" which is required by law to be kept. These records shall index in the general index of the land records kept by him all plats so filed and recorded, both in the names of the subdivision as given upon such plats and in the name of the owners so signing the direction. The Clerk shall receive for each plat or section of the plat so filed with him such fee as may be set

from time to time by the Commissioners of Poolesville by resolution.

Sec. 12. Plat books.

The Town Clerk shall maintain suitable books to be designated "Plat Book No.," etc., in which such plats shall be included. The plats shall be filed in chronological order by the date of the Planning Commission Chairman's signature.

Sec. 13. Effect of filing.

Such plats, when filed for record as in this Ordinance provided, shall constitute a part of the land records of the Town, and shall have the same force and effect as to notice as is now given to properly recorded deeds.

Sec. 14. Streets, etc., dedicated to public use; abandonment of subdivision.

When plats are recorded, those portions of lands designated on the plats as drainage ways, paths, walks, streets, roads, avenues, lanes and public parks or squares, or other areas dedicated to public use shall be forever dedicated to public use, and shall not thereafter, on any pretext whatsoever, be altered or taken for private use; provided, however, that:

- A. Nothing herein contained shall affect the rights of any person owning or claiming any interest in such land derived by, from or under any persons other than the maker of such plat, or by, from or under such maker prior to such subdivision; and
- B. The maker of any such plat, his heirs or assigns, shall have the right to apply by petition to the Commissioners of Poolesville for leave to abandon the subdivision of lands so made by him, or any part thereof, and reconvert the same into one tract or parcel. The Commissioners of Poolesville, convinced upon such proof, and if such notice by publication or otherwise, or as they shall direct, that upon good cause shown and after public notice as they may direct, and upon a finding that no damage can be in anywise sustained by the general public or persons other than the petitioners, shall have power to pass an order authorizing such petitioner to abandon such subdivision either in whole or in part.
- C. Upon filing with the Commissioners of Poolesville an initial petition for abandonment, the petitioner shall serve a copy of

such petition upon the following agencies and public utilities by regular mail:

1. The Maryland National Capital Park and Planning Commission;
 2. The Poolesville Planning Commission;
 3. All gas, electric, cable television, telephone and all other utility companies franchised by the Town, State or the County to service the Town;
 4. State Highway Administration;
 5. Director, Montgomery County Department of Public Works and Transportation.
- D. In arriving at its decision, the Commissioners of Poolesville shall consider any recommendation on the proposed abandonment filed in the proceeding by any of the above agencies and utility companies; provided, however, that, if such agency or utility company has not filed a recommendation with the Commissioners of Poolesville within sixty days from the date of service upon such agency or utility company, the consent to the proposed abandonment by the agency or utility company may be presumed. The Commissioners of Poolesville shall not grant any petition for abandonment until ten days after the expiration of the sixty-day period or such other time subsequent thereto as directed by the Commissioners of Poolesville. The Planning Commission is authorized to file a petition with the Commissioners of Poolesville to abandon any dedicated areas described above. The same procedures, which apply to a petition for abandonment by the owner, shall apply to petitions by the Planning Commission. This section shall not apply to the abandonment of dedicated drainage ways, streets, roads, avenues or lanes which have been used by the public or accepted for maintenance by any State or local government, in which case proceedings for abandonment shall be brought in accordance with the laws and procedures of those jurisdictions having been granted the dedication(s).

ARTICLE III. SUBDIVISION REGULATIONS-GENERALLY**Sec. 15. Limitations on issuance of building and/or zoning code compliance permits.**

No Building and/or Zoning Code Compliance permit shall be approved for the construction of a dwelling or other structure on any recorded lot or parcel located within the Town, until the Commissioners of Poolesville have declared such lot or parcel to be eligible for immediate development, in accordance with guidelines for regulated development included in the Town Ordinances and the Town Master Plan. Furthermore, no Building and/or Zoning Code Compliance permit shall be issued if the Planning Commission determines that the subdivider, applicant or developer has failed to comply with any part of this Ordinance. In any single-family residential zone, only one dwelling unit shall be allowed on any approved lot. No building permit shall allow construction across platted and recorded lot lines.

Sec. 16. Recording copies of plats previously filed - Generally

- A. A plat of property that has been previously recorded and found to be in error may be corrected by the recording of a new plat. Such plat shall conform to all of the requirements of the applicable subdivision and zoning regulations effective at the time of the recording of the original plat. The corrected plat shall have in addition to the certifications required under this Ordinance, a new certificate by a registered land surveyor identifying the corrections made to the original plat and attesting to the completeness and accuracy of the new plat under these regulations and the applicable laws of the State of Maryland pertaining to the surveying of land.
- B. The corrected plat shall be placed in the record books of the Town and County after approval by the Planning Commission and the signing of the plat by the Chairman of the Planning Commission.
- C. The corrected plat shall replace the original plat in the record books. The original plat shall have affixed to it a notice referencing the fact that it is no longer valid, and give the liber and folio number where the new plat may be found.

Sec. 17. Road grade approval prerequisite to construction of improvements or installation of utilities.

No final grading, sidewalk or pavement construction, or installation of utilities shall be permitted in the bed of any proposed street in any subdivision until the grade has been approved in accordance with Section 20 (Required Public Improvements) of this Ordinance.

Sec. 18. Dedication of streets, roads, etc.

A record plat shall be filed and recorded to register the dedication of a highway or street or any part thereof, as determined by the Planning Commission. No Building and/or Zoning Code Compliance permit shall be issued until all required dedications have been made.

Sec. 19. General procedures for submission of subdivision plans.

A. Phases. In order to provide an orderly basis for the processing of subdivision plans prior to approval, the Planning Commission will consider such plans in two stages, as follows:

1. The preliminary plan shall be submitted with application and fee for conditional or tentative approval.
2. The final plat for recordation of all or part of a subdivision shall be submitted with required supporting data and documents, together with application for approval and plat fee.

B. Rejection. The Planning Commission may reject a subdivision of or part of a tract if the size and shape of the property as submitted prevents designing a plan which will meet standards established by these regulations and require all or a larger part of the tract to be platted to meet this Ordinance, the Road Construction Code or other ordinances or regulations.

C. Area within pending zoning map amendments. In order to facilitate the orderly coordination of this Ordinance with the Town rezoning procedures, the Planning Commission may reject a proposed plan of subdivision if all or any part of said plan lies within the boundaries of a pending amendment to the zoning map. Any plan so rejected may be resubmitted to the Planning Commission without additional filing fees immediately upon the final disposition of the pending amendment; provided, that this subsection shall not apply nor shall an additional fee be required to refile whenever any map amendment is still pending on the whole or any part of such

plan after the passage of four (4) months from the date of the original submission of the plan.

- D. Pending Master Plan changes. In order to facilitate the orderly coordination of this Ordinance with Town planning and zoning procedures, the Planning Commission may reject a proposed plan of subdivision if all or any part of said plan lies within the boundaries of and conflicts with the proposals of a pending Master Plan or Master Plan Amendment, as designated by the preliminary draft of the Master Plan or Master Plan Amendment duly prepared by the Planning Commission or other planning body authorized by the Commissioners of Poolesville to prepare such plan or amendment. In determining whether a proposed plan of subdivision conflicts with a pending Master Plan or Master Plan Amendment, the Planning Commission shall utilize the latest version of the Master Plan or Master Plan Amendment upon which the Planning Commission has taken formal action. Any plan of subdivision so rejected may be resubmitted to the Planning Commission, without additional filing fees, following the final disposition by the Commissioners of Poolesville, of the pending Master Plan or Master Plan Amendment; provided, however, that whenever any such Master Plan or Master Plan Amendment or any redraft or reformulation thereof is still pending, on the whole or any part of the said subdivision plan, after the passage of four months from the date of the original submission of the subdivision plan, a subdivision plan rejected in accordance with the provisions of this subsection may be resubmitted, without any additional fee and shall not be rejected again under the provisions of this subsection.

Sec. 20. Required public improvements

- A. General. Upon approval of the preliminary plat, the applicant shall prepare and submit to the Planning Commission plans for the installation of all required public improvements set out herein. Such plans shall be sufficient to show the proposed location, size, type, grade, elevation and other significant characteristics of each public improvement. All such public improvements shall be designed and completed in compliance with the standards, plans and specifications set forth in this Ordinance and in accordance with a Public Improvement Agreement between the applicant and the Town. Copies of such public improvement plans will be forwarded by the Town Engineer to the appropriate County and State agencies for study and recommendations. Such recommendation shall be submitted to the Planning Commission, which will then approve or disapprove the plans and proposed agreements and notify the applicant of its decision.

- B. Construction of new roads, sidewalks, etc. The roads, streets, street trees, landscaping and sidewalks with appurtenant drainage and other integral facilities in each new subdivision shall be constructed by the applicant or developer in accordance with the specifications of the State Highway Administration, Road Construction Code of the County and/or with requirements of the Town, whichever is applicable. All roads shall be constructed with curb and gutter unless specifically approved to the contrary by the Planning Commission.
- C. Existing frontage roads. In the case of a plat containing lots fronting on an existing State, County or municipally maintained road, the applicant shall provide, in addition to any required dedication for widening the existing right-of-way, such reasonable improvement to the road necessary to serve the needs of such subdivision for access and traffic as required by the Road Construction Code.
- D. Pedestrian paths. Where a pedestrian path is included in a subdivision plan and is dedicated to public use, the subdivider shall grade and construct a paved walk therein, such construction to be according to a plan approved by the Planning Commission in coordination with the Parks Board. In each case this path will be included in the permit for street paving.
- E. Storm drainage. In connection with the street improvement program in every new subdivision, the applicant shall do such grading and provide such drainage structures and storm drains as required and approved by the Planning Commission, in accordance with specifications of the Montgomery County Permitting Services and the Planning Commission.
- F. Markers and monuments.
1. Permanent reference monuments shall be placed as required by the Planning Commission based on the recommendation of the Town Engineer.
 2. Steel bars with identifying caps shall be set at the intersection of all lines forming angles in the boundary of the subdivision. The Planning Commission may require additional monuments at other points. The applicant shall bear the cost of replacing a disturbed monument until construction of the subdivision is completed.
 - a. Subdivisions containing less than ten lots shall have at least two (2) monuments.

- b. Subdivisions of ten (10) or more lots shall have at least two (2) monuments for every ten lots.
 - c. Markers shall be set at all block corners, angle points, lot corners and points of curvature along street right-of-way lines. Markers shall consist of steel bars at least fifteen inches long and not less than three-quarters of an inch in diameter.
 - d. Monuments may be cut stone six inches by six inches by three feet long with a drill hole in the center or reinforced concrete six inches by six inches by three feet long with a one-half inch round brass pin in the center.
 - e. Monuments and markers are considered improvements to the subdivision, and their placement will be guaranteed per these regulations.
3. After completion of road and street grading and paving in the subdivision and the grading and landscaping of lots adjacent thereto, it shall become the duty of the registered land surveyor who prepared and signed the subdivision record plat pertaining to such streets or his successor to place the markers and monuments in the ground as specified and as certified by such registered land surveyor on the record plat. Prior to acceptance for maintenance by the municipality of any roads or streets, a certificate by a registered land surveyor shall be presented to the Planning Commission stating that all survey monuments and markers are in place.
- G. Water and sewage disposal. At minimum, installation of all water and sewer lines designed to specifically serve the needs of said subdivision shall be the responsibility of the applicant or developer. The responsibility for installation of truck water and sewer lines designed to serve one or more subdivisions which connect with the central source of water or sewage treatment facilities shall be determined prior to approval of the subdivision plan.
- H. Street lights. The developer or applicant shall provide streetlights in accordance with specifications, requirements and standards as prescribed and approved by the Planning Commission.
- I. Preservation of topsoil. Topsoil shall not be removed from residential lots or used as spoil, but shall be redistributed to its approximate former depth. In all cases, good soil

conservation practices shall be used to prevent soil erosion and siltation during and after subdivision development.

- J. Installation of improvements. All public improvements shall be completed or assured as provided in subsection D.4. of Section 34 below (Same Procedure for Approval and Recording).

Sec. 21. Roads and streets - Plat and plan requirements.

- A. Master Plan roads. Subdivision plats shall include roads and streets shown on any adopted Master Plan of streets and highways or parts of such adopted plans, in accordance with the Road Construction Code, and where applicable shall include recommendations of the State Highway Administration as to State roads and Montgomery County as to County roads and access thereto.
- B. Continuation of roads. The proposed plan shall provide for continuation of any existing roads or streets (constructed or recorded) in accordance with adopted highway plans and applicable Road Construction Code, unless otherwise determined by the Planning Commission.
- C. Future subdivisions. A tract proposed for subdivision into parcels larger than normal building lots and intended for future subdivision rather than immediate development shall be divided so as to allow for future opening of streets and such further logical subdivision as can be foreseen.
- D. Secondary residential streets. Secondary residential streets shall be planned to discourage their use by non-local traffic.
- E. Commercial bypass. Local bypasses shall be provided around shopping centers, whenever the Planning Commission determines such bypasses are necessary.
- F. Major thoroughfares. Where a subdivision abuts or contains an existing or proposed major thoroughfare, access to such thoroughfare shall be a primary consideration and the Planning Commission may require either of several provisions for that access, such as:
1. Parallel streets with lots backing to thoroughfare, where appropriate, together with screen planting strips contained in a non-access easement along the real lot lines;

- 2. Parallel streets with short cul-de-sacs having terminal lots backing to the thoroughfare, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

- G. Traffic calming improvements. Where proposed improvements in a Subdivision require, in the opinion of the Planning Commission, with a recommendation from the Board of Parks, Recreation and Streets, calming control devices, the Commission may require the construction of physical improvements to the street grade, alignment, cross-section, or pavement surface, that will have the effect of controlling the speed of traffic. Such devices may include but are not limited to the following:
 - 1. Traffic circles or roundabouts.
 - 2. Lateral constructions such as curbing.
 - 3. Medians or islands.
 - 4. Changes in pavement materials, texture, or color.
 - 5. Landscaping.
 - 6. Gentle but noticeable grade changes.
 - 7. Paint markings, reflectors, or signs.

Sec. 22. Same-Design standards.

- A. Minimum widths of right-of-ways. Except in cases where the Town Master Plan or other adopted street plans or the Planning Commission specifies a greater or lesser width, minimum right-of-ways shall be as follows. Wider right-of-ways may be required by the Planning Commission when necessary to handle anticipated traffic or to allow for special construction problems or traffic situations.

<u>Type of Road</u>	<u>Right-of-Way Width</u>
1. Major highways and arterial divided roadways	120 feet
2. Arterial highways, business district streets and industrial streets	80 feet
3. Primary residential streets	70 feet

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|----|---|---|
| 4. | Secondary residential streets
and rural roads | 60 feet |
| 5. | Cul-de-sacs: <ul style="list-style-type: none"> a. Stem right-of-way b. Circular section minimum
diameter | 120 feet |
| 6. | Drainage right-of-ways: <ul style="list-style-type: none"> a. Enclosed b. Open | <p>10 feet plus an
additional 10 feet
during the period of
original construction</p> <p>As required by Rod
Construction Code
design standards</p> |
- B. Grades and alignment. Grades and alignments of platted roads and streets shall be established in accordance with the procedures and specifications of the Road Construction Code.
- C. Half street. Half-streets will not be permitted, without special approval by the Planning Commission. Whenever there is an existing half-street adjacent to a tract to be subdivided, the other half of the street shall, be platted and dedicated with such tract, unless otherwise determined by the Planning Commission.
- D. Cul-de-sacs and courts. With approval of the Planning Commission, cul-de-sacs may be used when an improved street layout will result because of the unusual shape, size or topography of the subdivision. Unrestricted use of cul-de-sacs shall not be permitted. A cul-de-sac shall not be longer than five hundred feet, measured on its centerline, unless, by reason of property shape, size, topography, large lot size, or improved street alignment, the Planning Commission may find a greater length to be justified.
- E. Intersections.
1. Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two new streets at an angle of less than seventy degrees will not be acceptable.

2. The location of intersections with arterial highways or major highways shall be determined by the Planning Commission in a manner that will discourage the movement of through traffic crossing such arterial or major highways. Proposed intersection(s) with arterial or major highways shall be spaced no closer together than six hundred feet.
3. The corner lots at an intersection shall be truncated by straight lines joining points twenty-five feet back from the theoretical property line intersection in each quadrant. In any case where more width is deemed necessary to provide safe sight distance or for traffic channelization, the Planning Commission may specify a greater cut-off than the normal cited above. Any abrupt changes in alignment shall have the corners cut off and widened sufficiently to permit gentler turning movements.

F. Horizontal alignment. In the case of primary and secondary residential streets and cul-de-sacs, the alignment shall be designed so that all deflections in horizontal alignment will be accomplished through circular curves properly incorporated into the design. The minimum permitted centerline radii shall be as follows:

Primary streets300 feet
 Secondary streets 150 feet

The Planning Commission shall require greater radii when safety requires. A tangent at least one hundred feet long shall be used between two reverse curves, except in cases of secondary residential streets.

G. Street names. No street names shall be used which have not been approved by both the Planning Commission and the Montgomery County Planning Board. A street name will be considered only if it falls into one of the following categories:

1. An individual who has at least ten (10) years of service with the Town in an elected and/or appointed capacity and is not currently in office or serving on a Board or Commission;
2. An individual who has made significant contribution to the Town or Community;
3. A name with local historical significance;

4. A name of flora or fauna indigenous to the area.

Names will be submitted to the Town for review by the Parks, Recreation and Streets Board. The Park, Recreation and Streets Board will forward its recommendations to the Planning Commission for review, and the approved names will be sent to the Maryland National Capital Park and Planning Commission for review and approval by the Planning Board. Streets names will be selected from the resulting list. (Resolution 006-07, adopted 1-22-07)

H. Street jogs. Street jogs with centerline offsets of less than 125 feet are prohibited.

I. Reverse curve tangents. A tangent at least 100 feet long shall be introduced between reverse curves on business, arterial and primary residential streets.

J. Trees. A subdivider shall provide and plant at least one street tree per 40 feet of road frontage in or, at the discretion of the Planning Commission adjacent to the public right-of-way, subject to the following requirements:

1. Trees to be planted shall be selected from the list of "acceptable trees" maintained in the office of the Commissioners of Poolesville.
2. All trees shall be at least one (1) inch in diameter and not less than eight (8) feet in height.
3. The species, location and method of planting of all trees shall be subject to review by the Board of Parks and Recreation and Streets prior to approval by the Planning Commission.
4. Trees will be guaranteed for two (2) years from the time that they are accepted by the Town.

Sec. 23. Forest conservation ordinance; compliance required.

Applicants under this section for projects that will ultimately require approval of a subdivision plat, site plan and/or erosion control or grading permit must comply with the requirements of the Poolesville Forest Conservation Ordinance. (Ord. No. 120, § 1, 12-7-92)

Editor's note-Section I of Ord. No. 120, adopted Dec. 7, 1992, added provisions designated as §25A. For purposes of classification such provisions have been redesignated as § 23.

Sec. 24. Water and sewer facilities.

- A. General. Before approving a subdivision, the Planning Commission shall refer to the Water and Sewer Allocation List approved by the Commissioners of Poolesville to certify the availability of water and sewage facilities or the lack thereof to the proposed subdivision.
- B. Central water and sanitary systems.
1. Required. Central water and sanitary sewer systems shall be required for any subdivision.
 2. Conditions relating to installation of utilities. The applicant shall ascertain from the Commissioners of Poolesville in writing the availability of public sewerage and water prior to submission of plat. Prior to recording of a final plat of a subdivision to be served by public water and sewer, the applicant shall produce evidence that he has complied with the conditions, if any, required for the installation of the utilities.

Sec. 25. Block design.

- A. Residential blocks. The length, width and shape of residential blocks shall be subject to approval by the Planning Commission.
1. Length. Maximum length of block ordinarily permitted is one thousand feet. Approval of blocks in excess of one thousand feet long will be granted only where it is shown that such a plan is the only feasible way of subdividing. No block, however, shall be approved which would require a crosswalk from street to street.
 2. Crosswalks. Crosswalks shall be provided for pedestrian access to schools, playgrounds, parks and other public areas where required by the Planning Commission.
 3. Width. Blocks shall be designed with sufficient width to provide no more than two tiers of lots. Exceptions to block width design may be approved by the Planning Commission.
 4. Multi-family blocks and access roads. The design and arrangement of access roads or drives within an apartment or multi-family group dwelling project, together with the required parking facilities and pedestrian walks, shall be subject to review and approval by the Planning Commission.

- B. Nonresidential blocks. Blocks designed for commercial use shall be of such length and width as may be determined suitable by the Planning Commission, including adequate provision for off-street parking, deliveries and truck maneuvering.

Sec. 26. Lot design.

A. General provisions.

1. Lot dimensions. Lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development or use contemplated and shall be approved by the Planning Commission. In no case shall the Planning Commission approve a subdivision plan, which provides for any lot smaller than the minimum size permitted by the applicable zoning classification.
2. Lots to abut on public street. Except as otherwise provided in the Zoning Ordinance, every lot shall abut on a street or road which has been dedicated to public use or which has acquired the status of a public road. However, the Planning Commission may approve not more than two lots on a private driveway or private right-of-way; provided, that proper showing is made that such access is adequate to serve the lots for emergency vehicles and for installation of public utilities, is accessible for other public services, and is not detrimental to future subdivision of adjacent land. In multi-family and townhouse developments not subdivided into individually recorded lots, the Planning Commission may approve more than two lots or buildings on private roads or drives, provided there is adequate access from such roads or drives to a public street, as above.
3. Side lines. Sidelines of interior lots shall be perpendicular to the street line, or radial to a curved street line, unless determined by the Planning Commission that a variation from this rule will result in a better layout.
4. Double frontage lots. Double frontage lots, meaning a block having only one tier of lots between two streets or roads shall not be approved except:
 - a. Where unusual topography, orientation or the size of the subdivision permit no other feasible way to subdivide; or Planning Commission as provided in subsection G. of Section 21 (Roads and streets-Plat and plan

requirements) or paragraph 4 of subsection A. of Section 25 (Block design).

- B. Resubdivision. Lots on a plat for the resubdivision of any lot, tract or other parcel of land that is a part of an existing subdivision previously recorded in a plat book shall be of the same character as to street frontage, alignment, size, shape, width, area and suitability for residential use as other lots within the existing block, neighborhood or subdivision. (Ord. No. 150, 7-7-00)
- C. Nonresidential lots. Depth and width of lots reserved or laid out for commercial purposes shall be adequate for the off-street service and parking requirements needed by the type of use and development proposed.

Sec. 27. Site Plan.

The site plan shall be filed with the Planning Commission and may cover all or any part of a lot or tract provided, however, that if the site plan does not cover the entire lot or tract, it shall show how it is related to and coordinated with other site plans either approved, under consideration or yet to be submitted.

- A. Contents of site plan. Drawings of the site and adjacent area, showing:
1. Topography at contour intervals of not more than two (2) feet.
 2. Bodies of water and watercourses.
 3. One hundred (100) year floodplains.
 4. Vegetative cover.
 5. Other natural features, such as rock outcroppings and scenic views.
 6. Landfills.
 7. Existing buildings and structures including the historic structures identified in the Town's Master Plan, and an explanation of any impact on same.
 8. The locations of highway and streets serving the site, noting centerlines, widths of paving, grades and median break

points.

9. The locations of proposed highways and streets serving the site.
10. The information required for the submission of a preliminary subdivision plan, as set forth in this section.
11. Non-tidal wetlands.

B. A plan of the proposed development showing:

1. The location, height, dimensions, ground coverage, and use of all structures.
2. For each residential building, the number of bedrooms, and the total floor area, if any, to be used for commercial purposes.
3. The floor areas of all nonresidential buildings and the proposed use of each.
4. The locations of recreational and green areas and other open spaces.
5. Calculations of building coverage, density, green area, numbers of parking spaces, number of easements and area of land use. Private driveway and parking areas shall be laid out to minimize impact on neighboring properties.
6. The location of all public schools, parks and other community recreational facilities, indicating the location and use of all land to be dedicated to public use and further including sketches indicating how proposed structures are in harmony with the immediate neighborhood.
7. The location and dimensions of all roads, streets and driveways, parking facilities, loading areas, points of access to surrounding streets, and pedestrian walks.
8. A grading plan.
9. The location of all sewer, water, and storm drainage lines, and all easements and right-of-ways, existing or proposed.
10. Stormwater management drawings and calculations, and plans for siltation and erosion control, both during and after

construction.

11. A landscaping plan, showing all man-made features and the location, height or caliper, and species of all plant materials and indicating compliance, if required, with the Town's Forest Conservation Ordinance, etc.
 12. An exterior lighting plan, including all parking areas, driveways and pedestrian ways, including the height, number, foot-candle footprint, type of fixtures and a diagram showing there light characteristics including the effect on other properties.
 13. A development program stating the sequence in which all structures, open spaces, vehicular and pedestrian circulation systems, landscaping and recreational facilities are to be developed. The applicant shall designate the point in the development program sequence when the applicant will notify the Planning Commission to request inspection for compliance with the approved site plan.
 14. If clustering is used the soil quality and type must be identified in accordance with the Soil Survey of Montgomery County Maryland Manual (SSMCM).
 15. Documents indicating in detail the manner in which any land intended for common or quasi-public use, but not proposed to be in public ownership, will be held, owned and maintained in perpetuity for indicated purposes.
- C. The Planning Commission in appropriate cases may waive the requirements of subsection A and B, above where it deems such information is not applicable.
- D. No presumption. The fact that application for site plan approval hereunder complies with all specific requirements set forth herein shall not be deemed to create a presumption that the application is in fact compatible with surrounding land uses and in itself shall not be sufficient to require the approval of a site plan.
- E. Action by the Planning Commission. A public hearing shall be held by the Planning Commission on each site plan for a commercial application. A public hearing may be held by the Planning Commission in its discretion for other applications. The Planning Commission shall approve, subject to modifications, or disapprove the site plan and notify the applicant in writing not later than sixty (60) days after receipt of the site plan unless extended by

the Planning Commission. Such action and notification shall not be required before the approval of a preliminary plan of subdivision, involving the same property. In reaching its decision the Planning Commission shall determine whether:

1. The site plan meets all of the requirements of the zone in which it is located;
 2. The locations of the buildings and structures, the open spaces, the landscaping, and the pedestrian and vehicular circulation systems are adequate, safe and efficient.
 3. Each structure and use is compatible with the other uses and other site plans and with existing and proposed adjacent development.
 4. Public facilities are adequate to support the proposed use.
- F. The Planning Commission shall not approve the site plan if it finds that the development would not achieve optimum compatibility, safety, efficiency, and attractiveness or that public facilities are inadequate.
- G. Upon approval, the site plan shall be:
1. Signed by the applicant agreeing to execute all the features and requirements that are part of the site plan;
 2. Signed by the chairman of the Planning Commission, or his designee, certifying Planning Commission approval of the site plan; and
 3. Forwarded by the applicant to the Montgomery County Department of Permitting Services for reference in issuing building permits.
- H. Effect of site plan. In the case of any land in a zone requiring site plan approval, record plats as required by these regulations shall be granted only in accordance with a site plan approved pursuant to this section. Building permits and use and occupancy permits shall also be issued only in accordance with an approved site plan. All the requirements and features that are part of the approved site plan shall be executed in accordance with the applicant's development program required by this section. A performance bond securing compliance with and full execution of all features of the site plan may be required to be posted with the Planning Commission in an amount established by the Planning

Commission. In such cases, the building permit or use and occupancy permit shall not be issued until the bond is posted.

- I. Failure to comply. Whenever the Planning Commission shall find, in the case of any approved plan, that any of the terms, conditions or restrictions upon which the site plan was approved are not being complied with, it is authorized, after due notice to all parties concerned and a hearing, to revoke or suspend the site plan and any related permits, or to take such action as it finds necessary to ensure compliance. Upon decision by the Planning Commission to revoke or suspend approval of a site plan, any building permit(s) issued pursuant to this regulation shall immediately become null and void.
- J. Amendment of a site plan:
1. Generally: Any proposed changes in an approved site plan shall be resubmitted for approval and evaluation of its effect on the original site plan.
 2. Required Revision: Where the Planning Commission finds that any element of an approved site plan is not performing in accordance with original expectations at approval, it may suspend its approval and require the developer to submit a revised site plan which addresses the element which is not performing adequately. Where such element is under the jurisdiction of the County, the Planning Commission shall enlist the cooperation of the responsible County agency to achieve adequate performance or compliance.
- K. Validity. A site plan, unless revoked or suspended by the Planning Commission shall remain valid for a period of eighteen (18) months following the expiration of all applicable appeal periods. In the event of an appeal to a court affecting the site plan, the time limitation set forth herein shall run from the decision date of the court making final determination of the appeal. If at the end of that eighteen month period construction of the proposed development shall not have begun, the site plan shall be considered void unless the Planning Commission shall have approved a petition for extension of time submitted by the applicant or his successors or assigns.

Editor's note-Ord. No. 96, § 7, adopted Mar. 22, 1988, amended App. B, § 5.C to read as herein set out, and it should be noted that § 9 of such ordinance provided that:

"The provisions of this Ordinance shall not apply to any publicly owned or operated building or use established on land purchased by a governmental entity prior to the effective date of this Ordinance." (Mar. 22, 1988)

Sec. 28. Cluster Subdivision

- A. Purpose and description. The purpose of the cluster method of development is to provide an optional method of development that encourages the provision of community open space for active or passive recreation as well as the preservation of sensitive areas in the community. The cluster method provides for flexibility in lot layout and for variety in subdivision design, while preserving the same limitations on overall density of dwelling units per acre as normally permitted in the respective residential zones. In order to accomplish this purpose certain changes in lot areas and dimensions are permitted. The cluster subdivision concept is voluntary on the part of the applicant, but the Planning Commission must agree that the concept is desirable for the property in question. The Planning Commission is looking for excellence in design with the goal of the long-term preservation and protection of the natural and cultural sensitive or unique areas of the community.
- B. Special requirements: In addition to the development standards set forth in the Zoning Ordinance, Section 3.E. (and related table) the following special requirements shall apply.
1. Cluster subdivision are permitted only with the approval of the Planning Commission, and only in the PR-1/2, and PR-3/4 zoning classifications that have been specifically designated on the Town's zoning map.
 2. Cluster subdivision are permitted only on parcels that have a minimum area of 30 acres.
 3. When the cluster subdivision concept is used, the applicant may propose using a minimum lot size that conforms to the following.
 - a. In the PR-1/2 zone; minimum lot size shall be 1/3 acre.

- b. In the PR-3/4 zone; minimum lot size shall be 1/2 acre.
4. The gross density of the parcel for which the cluster subdivision is proposed shall not be more than its density if the subdivision were to be approved by the Planning Commission under the standard development method.
5. The zoning requirements such as, minimum building lines, maximum floor area, etc., for the cluster lots shall be equal to those designated in the zoning ordinance for the new minimum lot size.
6. The use of the cluster subdivision does not confer any additional exceptions to the subdivision or zoning regulations other than what has been indicated above. The cluster subdivision shall meet all other design standards and subdivision requirements that apply to a conventional subdivision.

Sec. 29. Public sites and adequate open spaces.

A. Mandatory dedication, or fee or in kind services in lieu of dedication:

1. In every instance of subdivision approval for residential use (except as set forth in paragraph 2 hereof) the Planning Commission, upon the recommendation of the Board of Parks, Recreation and Streets, shall require every applicant who subdivides land to dedicate to the Town of Pooleville a portion of such land, pay a fee, or provide in kind services, or do all of the foregoing, as set forth in this ordinance for the purpose of providing park and recreational facilities and park maintenance to serve future residents of such subdivision. In kind services shall include but shall not be limited to the construction or provision of park and recreational facilities.
2. For proposed multi-family developments, the actual number of dwelling units proposed shall be considered as the number of units for the requirements specified in this section, or if no particular number of dwelling units are proposed the requirements shall be based on the number of dwelling units per acre permitted in the multi-family zoning regulations which apply to land to be subdivided.

3. Any land to be dedicated as a requirement of this section shall be reasonably adaptable for use for active park and recreational purposes and shall be so located so as to be reasonably accessible to all the residents of the Subdivision. Factors used in evaluating the adequacy of the proposed park and recreation areas may include but not be limited to size and shape, topography, geology, vegetation, access and location. In all instances, the recreation land requirements shall be suitable for dry ground recreational use. A minimum of fifty (50) percent of the dry ground for recreational area shall not exceed three (3) percent grade. The remaining dry ground recreation area shall not exceed five (5) percent grade. Exceptions to the preceding may be given in cases of exceptional topography and special recreational uses. When the Planning Commission finds it necessary to alter or change the site to make it suitable, by clearing, grading, drainage or other operations or a combination thereof, a modified site plan may be required. Such changes or improvements are to be as required on said plan to the standards of the Town of Pooleville.

4. Where a dedication is required, the amount of land necessary for the said purposes shall vary, as herein set forth, and shall be based on the gross area included in the subdivision, determined by the following formula:

Density Formula

<i>Net density per finished lot or per dwelling unit</i>	<i>Percentage of the gross area of the subdivision required when parkland is required</i>
1 D.U. per 3/4 acre or more	5%
1 D.U. per lot less than 3/4 acre	10%

5. Where a fee or in kind services or both are required to be paid in lieu of a part or all of the land dedication, the amount of such fee or services or both shall be the amount specified as a recreation fee for the subdivision in the impact fee schedule as approved by the Commissioners of Pooleville from time to time.

B. Choice of land and/or fee.

1. Procedure. The procedure for determining whether the applicant is to dedicate land, pay a fee, or provide in kind services, or do all of the foregoing, shall be as follows:
 - a. Action of applicant. At the time of filing a preliminary subdivision plan, the owner of the property shall, as a part of such filing, after consultation with the Board of Parks, Recreation and Streets, indicate proposed locations for park and recreational purposes or whether he desires to pay a fee or provide in kind services in lieu thereof. If he desires to dedicate land for this purpose, he shall designate one or more alternative locations for the proposed parkland in consultation with the Board of Parks, Recreation and Streets.
 - b. Action of Town. At the time of the tentative approval of the preliminary plan, the Planning Commission shall determine as a part of such approval, whether to require a dedication of land within the subdivision, the location of such land, payment of a fee or provision of in kind services in lieu thereof, or a combination of land and fee and in kind services. The Planning Commission shall consider the recommendation of the Board of Parks, Recreation and Streets.
 - c. Upon application by any applicant for a waiver of the requirement of dedication, fee or in kind services and a finding by the Planning Commission that the proposed subdivision is inadequate in size and/or impact to warrant or necessitate such, it may waive such requirement.
 - d. Prerequisites for approval of final dedication. Where dedication is required it shall be accomplished in accordance with the provisions of these subdivision regulations. Where fees are required the same shall be deposited with the Town prior to the issuance of any building permit in the subdivision.
2. Determination. Whether the Planning Commission accepts land dedication or elects to require payment of a fee or in kind services in lieu thereof, or a combination of all of the foregoing, shall be determined by consideration of the following:

- a. Recreational element of the Town's Master Plan; and
 - b. Topography, geology, access, location of land, and other physical factors in the subdivision available for dedication.
3. The land, fees and in kind services received under this section shall be used for, but shall not be limited to, the purpose of providing parks, recreation facilities and park maintenance to serve the present and future residents of the Town; however, the amount of the contribution should bear a reasonable relationship to the size of the subdivision. Monies collected or in kind services provided in this manner shall be used by the Town of Poolesville for, but shall not be limited to, the purchase of parkland or equipment or for park maintenance, facilities or recreation programs.
 4. No building permit shall be issued in a subdivision where a fee or in kind services are required by the Planning Commission until the said fee shall have been paid, or provision for in kind services shall have been provided.
- C. Adequate open space for traffic, coordination of roads, utilities and storm drainage.
1. Roads. In its consideration of the approval of a proposed subdivision, resubdivision, or of a preliminary plan of subdivision, or resubdivision, the Planning Commission shall require the dedication to public use of adequate open spaces for traffic and the coordination of roads within the subdivision with other existing, planned or platted roads, or with other features of the Town, or with the Town's Master Plan or with any road plan adopted or approved by the Planning Commission as a part of the Town's Master Plan. Such dedication to public use shall be to the full extent of any and all right-of-ways for all roads, streets and highways, including widening of any existing street, determined to be necessary and proper and such as would be required by reason of the optimum utilization and development of the subject property in its present zone classification. In determining the dimensions of the right-of-ways to be dedicated, the Planning Commission shall relate the area of dedication to:

- a. The total size of the subdivision.
- b. The maximum street right-of-way or improvement required for that category of land use as established in the road code of the applicable jurisdiction.
- c. The increased traffic, travel lane and right-of-way requirements, which would be created by optimum utilization and development of the subject property in its present zoned classification.
- d. Estimated ultimate traffic volumes. Such dedication to public use shall be to the full extent of the required right-of-way in each case. A subdivision resulting from a lot or lots of land not in accordance with duly enacted subdivision regulations shall be an illegal subdivision; in the event of an illegal subdivision of land the size of such illegal subdivision shall not be considered in determining the right-of-ways to be dedicated but in such case the tract to be considered shall consist of the land as it existed prior to such illegal subdivision thereof.

Whenever a dedication of land to public use shall be required under any of the provisions above set forth, the Planning Commission in its finding and order, shall specify on the preliminary plan the area to be dedicated and shall also state the applicable provision of the subdivision regulations and circumstances that necessitate and require such dedication for public use.

In the event that the applicant shall object to the dedication required by the Planning Commission, the applicant shall file written objection within twenty days of such order of dedication, which shall state in detail the exact order or portion of such order which is objected to and specific reason or grounds for such objection. In the event such notice of objection is filed, the Planning Commission shall hold a hearing on the issue of such dedication and at such hearing it shall be incumbent upon the applicant to supply competent and relevant evidence to sustain his grounds for objection. Any objection to dedication for which evidence shall not be adduced, shall be considered to be waived and abandoned by the applicant.

2. Slopes. When required for construction or road maintenance, 3:1 slope easements shall be established along both sides of each road or street dedicated to public use. The 3:1 slope easement shall be referred to the street grade approved under these regulations. The Planning Commission may approve steeper slopes, no greater than 2:1.
 3. Right-of-ways and easements other than roads. The Planning Commission may require dedication to public use of right-of-ways or easements of land necessary for such public uses as pedestrian paths, water and sanitary sewer, storm drainage and stormwater management facilities. The extent and width of the easements and right-of-ways shall be as determined by the Planning Commission after consultation with the Board of Parks, Recreation and Streets and the Town Engineer.
- D. Refusal of areas not suitable for public use. Whenever a preliminary subdivision plan or record plat includes a proposed dedication of land to public use and the Planning Commission finds that such land is not required or not suitable for public use, the Planning Commission may either refuse to approve such dedication or it may require the rearrangement of lots in the proposed subdivision to include such land.
- E. Excessive grading. Upon review of the preliminary plan, if the Planning Commission determines that unusual and abnormally excessive grading will result from the proposed development and if the Planning Commission finds that the same can be lessened by a rearrangement of lots and streets or other engineering design practices, the Planning Commission may require that the subdivision be redesigned.

(Ord. No. 87, § 1, 7-21-86; Ord. No. 97-B, § 1, 2-21-89; Ord. No. 104, § 1, 5-7-90)

Sec. 30. Reservation of land for public use.

- A. Procedure. The Planning Commission shall refer, when reviewing preliminary subdivision plans, to the Master Plan or parts thereof, adopted or proposed or studies related thereto, to determine the need for reserving for public use any of the land. Reservations for a period of two years may be required for road or street right-of-ways, public school and building sites, parks, playgrounds or other recreational areas or other public purposes.
1. Referral to agency concerned with acquisition. If a reservation appears to be in the public interest, the Planning Commission shall refer the plan to the public agency concerned with acquisition for consideration and report. The Planning Commission may propose alternate areas for such reservation and shall allow such public agency thirty days for reply. The agency's recommendation, if affirmative, shall include a map showing the boundaries and area of the parcel to be reserved and an estimate of the time (not over three years) required to complete the acquisition.
 2. Resolution. Declaration of public reservation shall be by resolution of the Planning Commission, stating the period during which the reservation shall be effective. Notice of the same shall be carried twice in a newspaper of general circulation in the Town and a plat shall be recorded in the land records of the County described by metes and bounds the land so reserved. Certified copies of the resolution shall be sent to the property owner and to the agency concerned with acquisition.
 3. Taxes. The Planning Commission shall advise taxing and assessing bodies of all public reservations, and such public reservations shall be exempt from all local taxes during the reservation period.
 4. Posting. The Planning Commission shall post properties so reserved with an appropriate sign, warning against violation of preservation provisions and the penalties therefor.
 5. Preservation. During the reservation period, no building or structure shall be erected upon the land so reserved. No trees, topsoil or cover shall be removed or destroyed; no grading shall be done; no storm drainage structure shall be so built as to discharge water on the reservation except for storm drainage construction in accordance with a storm

drainage plan approved by the Town Engineer; nor shall any land so reserved be put to any use whatsoever, except upon written approval of the Planning Commission. Nothing in this section shall be construed as prohibiting the owner from removing weeds or trash from property so reserved, nor from selling when approved by the Planning Commission such parts of the land as may be necessary for water, sewer or road right-of-way for public agencies.

- B. Expiration of plan. The expiration or revocation of approval of a preliminary subdivision plan shall serve to terminate any reservation placed thereon by the Planning Commission. Upon expiration, the applicant may process a curative final plat removing the area(s) reserved unless the public body requiring the reservation shall commence the action of condemnation.

Sec. 31. Control of flood plain areas and unsafe land.

- A. Flood plain. The Planning Commission shall, when it deems necessary for the health, safety, comfort or welfare of the present and future population of the Town and necessary to the conservation of water, drainage and sanitary facilities, restrict subdivision for development of any property which lies within the one hundred year flood plain of any stream or drainage course. One hundred year flood plain is defined as that area which would be inundated by storm water run off equivalent to that, which would occur with a rainfall of one hundred year frequency after total development of the watershed.
- B. Unsafe land. The Planning Commission, upon consultation with the Town Engineer and other appropriate agencies, shall also restrict such subdivision of any land which is found by the Planning Commission to be unsafe for development use by reason of its being subject to flooding, erosive stream action, unstabilized slope or fill or otherwise located in a situation so that safe, healthful development cannot be maintained on the land.
- C. Building restriction line. A building restriction line is a line designating an area in which development or building is restricted to agricultural or recreational purposes, except as otherwise provided herein. A building restriction line shall be used to

designate flood plain or unsafe building areas in all cases where the area is not shown on the plat as right-of-way or easement in accordance with this ordinance.

- D. Part of lot. The Planning Commission may permit, as to flood plain or unsafe land, that it be platted as a part of a lot in which there is sufficient safe ground to erect a building or dwelling within the required setbacks of the zoning classification. In the event that such land is platted as a part of a build able lot, there shall be placed on such platted lot a building restriction line which shall be located so as to provide at least a twenty-five foot setback between any building and the unsafe areas and a greater setback where necessary to provide positive drainage between the building and unsafe area.
- E. Removal. When any unsafe or flood plain land has by subsequent change in conditions become safe for building by finding of the Planning Commission, the building restriction line may be removed by the recording of a new plat approved by the Planning Commission.
- F. Denial of building and/or zoning code compliance permit. No building or zoning code compliance permit shall be issued within any building restriction line or in other areas within a flood plain or on unsafe land for any structure or additions to existing structures except for fences, agricultural structures, public utility and other structures approved by the Planning Commission or Commissioners of Pooleville as necessary for the safety and welfare of the citizens of the Town; provided, however, that this section shall not be construed to prohibit the issuance of building permits for the reconstruction and repair of single-family dwellings existing on the date of adoption of this ordinance and located within any one hundred year flood plain.

(Ord. No. 95, § 1, 11-16-87)

Sec. 32. Pre-application submissions.

Subdivision applicants are authorized to submit informal pre-application plans, including location maps, sketch plans and such other information as is necessary, and to seek advice from and confer with the Planning Commission prior to formal submission of a preliminary plan.

Sec. 33. Preliminary subdivision plans-Filing and specification.

- A. General. Every proposed subdivision or re-subdivision shall be submitted to the Planning Commission for tentative or conditional approval in the form of a preliminary plan prior to the submission of a subdivision record plat. The plan shall show graphically all facts needed to enable the Planning Commission and other public agencies to determine whether the proposed layout of the land in question is satisfactory from the standpoint of the public health, safety and welfare and the regulations, ordinances and laws applicable.
- B. Filing of plan with application and processing fee. The applicant or his agent shall file five copies of the preliminary subdivision plan with the Planning Commission including one which shall be in the form of a reproducible drawing, together with the application for its approval and at the same time shall deposit the appropriate fee for its processing. Fees for processing shall be established by resolution adopted by the Commissioners of Poolesville from time to time.
- C. Application for approval. Written application by the owner or agent shall be filed with each preliminary plan and contain such information as the Planning Commission shall require. Each such application shall include a copy of any and all covenants, declarations or other documents enforceable by other landowners, inside the proposed subdivision as well as adjacent thereto, a homeowners association, architectural control committee or other similar body that can impose restrictions on the development or use of the lots in the proposed subdivision. Such covenants, declarations or other documents shall be reviewed by the Planning Commission.
- D. Supporting information and detail. The drawing shall be a graphic representation of the proposed subdivision and shall be submitted with the application in such form and with such information and supporting detail as may be required by the Poolesville Code and

the application form. Details and information required shall include but is not necessarily limited to:

1. Scale drawing of one hundred feet to the inch, or other scale, which may vary according to the size of the development, in accordance with Planning Commission requirements.
2. Title information.
3. Certificate of registered professional engineer or registered land surveyor as to source and accuracy of boundary lines, topographic data and other engineering or survey data.
4. Existing features, including but not limited to significant tree groves, scenic or historic areas, streams, drainage areas and outstanding natural topographic features, septic systems, underground storage tanks, wells, wetlands, 100 year flood plains and existing structures.
5. Boundary outline, with survey tied into the Maryland State Grid System.
6. Locations and names of adjacent subdivisions with lot, block and record plat number and current owner of immediately adjoining subdivided land.
7. Location, names, widths of right-of-ways and construction details for all roads and dedicated right-of-ways and easements.
8. Location of existing and proposed utilities, such as storm drains, electrical conduits, etc.
9. Existing topography with contour intervals not greater than five feet.
10. Vicinity location map.
11. Graphic representation of property drawing of proposed subdivision, including:
 - a. Lot and block layout.
 - b. Roads and streets shall, in general, be laid out to preserve and encourage open spaces, tree cover, recreation areas, scenic vistas and outstanding natural

topography. In cases where the topography or other topographical conditions make difficult the ready determination of the adequacy of the street grades, the registered land surveyor or registered engineer submitting such grades may be required to substantiate subdivision layout with plans, profiles or designs and certifications as may from time to time be required by the Planning Commission. The minimum road grade shall be one (1) percent at the maximum shall be five (5) percent, unless otherwise deemed acceptable by the Planning Commission.

- c. Storm drain - The preliminary plan shall be supported by a preliminary storm drain study prepared in accordance with the requirements of the Town Engineer or as otherwise specified by the Planning Commission.
- d. Water and Sewer - The preliminary plan shall be supported by a preliminary water and sewer study prepared in accordance with the requirements of the Town Engineer or as otherwise specified by the Planning Commission.
- e. Stormwater Management - The preliminary plan shall be supported by a concept Stormwater Management Plan prepared in accordance with the requirements of the Montgomery County's Department of Permitting Services or its successors or as otherwise specified by the Town Engineer on behalf of the Planning Commission.
- f. Sites for public uses and open spaces.
- g. Right-of-ways and easement for proposed slopes, paths, utilities, on and off site storm drainage and other required improvements as well as existing adjacent slopes, paths, utilities, and on and off site storm drainage.
- h. Sites for other than single-family dwellings.
 - (1) All sites proposed for uses such as churches, public utilities, shopping centers, multi-family dwellings, general commercial or CBD shall be indicated for such use on the preliminary plan, together with scaled dimensions and approximate area of each such site. The proposed use shall be

in accordance with the uses for which the property is actually zoned.

(2) When the property is included in more than one zoning classification, the lines showing the limits of each classification shall be clearly indicated.

(3) Interior road or street access, whether private or proposed to be dedicated, shall be shown.
(Ord. No. 108, § 1, 9-3-91)

12. Forest Conservation: If a forest conservation plan is required, the Planning Commission shall not approve a preliminary plan or any time extension thereof until all requirements contained in the Forest Conservation Ordinance, of the Poolesville Code, are satisfied. Compliance with a required forest conservation plan, including any plan reviewed on a preliminary or final basis, shall be a condition of any approved preliminary plan of subdivision whether expressly stated or not.

Sec. 34. Same-Approval procedure.

- A. Referral of plan. Two copies of the preliminary subdivision plan shall be referred by the applicant forthwith to each or any of the following agencies when such agency has a direct interest in the installation or maintenance of utilities, roads or other public services which will serve the subdivision, for their review and recommendation with respect to approval of the plan. These agencies shall include, but not be limited to, the Commissioners of Poolesville, the Montgomery County Board of Education, State of Maryland State Highway Administration, Maryland Department of the Environment, Montgomery County Department of Permitting Services, Maryland National Capital Park and Planning Commission and the Montgomery County Department of Public Works and Transportation.
- B. Recommendations from public agencies. Each agency will be requested to return one copy of the plan to the Planning Commission within thirty days with its recommendation noted thereon, such as "Approve," "Approve subject to modification" or "Disapprove" for stated reasons. If such recommendation is not received within the thirty-day period by any agency to whom referred, the plan will be assumed to be favorable in that

situation, provided there has been compliance with the provisions of subsection C below. The period may be extended by the Planning Commission for an additional thirty days upon request of such agency stating reasons therefor in writing.

- C. Road grade and road profile. Prior to final approval of a preliminary plan by the Planning Commission, the subdivider shall furnish preliminary approvals from the County Department of Public Works and Transportation and/or the Maryland State Highway Administration for road improvements proposed under their jurisdiction.
- D. Adequate public facilities.
1. No preliminary plan of subdivision shall be approved unless the Planning Commission, with the advice of the Board of Parks, Recreation and Streets determines that public facilities are adequate to support and service the area of the proposed subdivision. An applicant for a subdivision of land shall submit sufficient information and data, including traffic studies, on the proposed subdivision to demonstrate the expected impact on and use of schools and other public facilities by the residents or occupants of said subdivision.
 2. Public facilities may be determined to be adequate to service a tract of land or an affected area when the following conditions are found to exist:
 - a. The tract or area is adequately accessible by means of roads. After consideration of the recommendation of the State Highway Administration and/or the County Department of Public Works and Transportation concerning the applicable levels of traffic service, peak hour use and average use and other pertinent information, said area or tract to be subdivided shall be deemed adequately accessible via roads if existing roads are adequate to accommodate the traffic that would be generated by the subject subdivision in addition to existing traffic, and are publicly maintained all-weather roads.
 - b. Adequate water and sewer service has been allocated to the tract or area in accordance with the Water & Sewer Allocation List approved by the Commissioners of Poolesville.

- c. The tract or area is so situated as not to involve danger or injury to health, safety or general welfare. Such danger or injury may be deemed not to exist:
 - (1) When physical facilities, such as police stations, firehouses, health clinics and schools, in the service area for the preliminary subdivision plan are currently adequate; and
 - (2) The applicant provides written assurances that adequate public utility services will be available to serve the proposed subdivision.
- d. Existing or proposed street access within the tract or area is adequate. Street access may be deemed adequate if the streets:
 - (1) Are adequate to serve or accommodate emergency vehicles;
 - (2) Will permit the installation of public utilities and other public services;
 - (3) Are not detrimental and would not result in the inability to develop adjacent lands in conformity with sound planning practices;
 - (4) Will not cause existing street patterns to be fragmented; and
 - (5) Will not create a congested or hazardous condition;
 - (6) Are in conformance with the Master Plan.
- 3. In considering questions of adequacy of public facilities, as set forth above, the Planning Commission shall consider, but not be limited to review of the Master Plan as well as, the nature, extent and size of the proposed subdivision and its impact in terms of the following:
 - a. The estimated increase in population likely to result when said subdivision is developed in context with projected densities in currently approved subdivisions in the surrounding area and immediate vicinity of the proposed subdivision.

- b. The present or projected manner of development in the form of additional public services, land uses, and community resources required to serve the development.
 - c. The avoidance of excessive expenditure of public funds necessitated by the proposed subdivision.
 - d. The estimated increase in traffic volumes likely to result when such subdivision is developed in context with anticipated volumes from currently approved subdivisions in the surrounding area and in the immediate vicinity of the proposed subdivision.
4. Installation of improvements. All public improvements shall be completed or assured as hereinafter provided. Where the entity seeking subdivision has not previously been, discharged in bankruptcy and has not violated any previous agreement, then prior to the approval by the Planning Commission of any final plat or portion thereof, the entity seeking subdivision shall enter into a Public Improvement Agreement with the Town to guarantee the proper installation and completion of all public improvements as required, and to assure final completion by obtaining such permits, bonds, letters of credit or providing for such sureties as may be required by applicable laws. Such Public Improvement Agreement shall be submitted in a form approved by the Town and shall provide that prior to the occupancy by any persons of any buildings within such subdivision that the applicant shall have completed the improvements, complied with or obtained all necessary permits and posted all sureties required to guarantee final completion of the improvements necessary to serve such buildings. If the applicant is a corporation, the Public Improvement Agreement shall be signed individually by the principal officers of the corporation as well as by the corporation. The Commissioners of Poolesville shall be authorized to proceed at law or equity or to take such other action as necessary to enforce the provisions of such agreement, including, where applicable, the withholding of water and sewer service.

E. Sketch Plat Review.

- 1. The purpose of the Sketch Plat procedure is to give the applicant an opportunity to obtain advice and assistance from the Planning Commission before committing substantial time and money to the project.

2. The following procedure should be followed for submittal of a Sketch Plat:
 - a. Before filing an application for approval of the Preliminary Plan, the applicant may meet with the Planning Commission to discuss the proposed subdivision. For this review, the applicant shall submit to the Planning Commission a sketch plan application and fee. The application shall contain the information listed in F. This material shall be submitted at least fifteen (15) days before the Commission's scheduled meeting.
 - b. The Planning Commission and the applicant shall discuss the requirements of these Regulations as they apply to the proposed subdivision. Within sixty (60) days after the Commission's meeting, the Planning Commission shall inform the applicant if the plans as submitted, or as modified, meet the objectives of these Regulations. The Planning Commission shall express its findings in writing.
- F. Sketch Plat Requirements. If the developer elects to follow the sketch plat procedure, he shall submit the following information:
 1. General word description describing or outlining the existing conditions of the site and the proposed developments as necessary to supplement the drawings required below. This information shall include:
 - a. Existing covenants.
 - b. Soil types from SSMCMM data.
 - c. Existing zoning.
 - d. Available community facilities.
 - e. Number of proposed lots.
 - f. Typical lot width, depth, area.
 - g. Proposed land uses.
 - h. Proposed utilities.

2. Location map at a scale of 1"=2000 feet with north arrow and tax map designation.
 3. A drawing using United States Geological Survey (USGS) topography or other available topographic survey, which will show the proposed layout of streets, lots, and proposed land uses.
- G. Disposition of approved preliminary plans. Following each Planning Commission meeting, every preliminary plan which has been approved or conditionally approved will be signed by the Planning Commission Chairman to indicate the action of the Planning Commission. The original tracing will be returned to the applicant and copies thereof showing the Planning Commission's action shall be furnished each interested agency. Minor modifications approved by the Planning Commission may be indicated on the tracing as revisions. Any substantial modification approved by the Planning Commission will require that the tracing be returned to the applicant for complete revision before receiving the approval signature. A copy of the original plan with modifications and a copy of the revised plan as approved will be filed in the Town's official records.
- H. Time limit on approval. If within one year from the date of approval of a preliminary plan, the applicant has not submitted necessary infrastructure construction drawings, prepared and recorded plats, or posted bonds for the public infrastructure for all of the area covered by such approved preliminary plan, then the approval for the remainder of the plan shall expire. The applicant may apply for an extension of the approval of a preliminary plan, subject to the same limitations as above.
- I. Revocation of approval. Approval of a preliminary plan may be revoked by resolution of the Planning Commission at any time prior to the approval of the final record plat covering the proposed subdivision. Such revocation shall be based upon a finding by the Planning Commission that: any conditions attached to the approval of such preliminary plan have become inapplicable; or that the plan itself has been rendered impractical by reason of an amendment or addition to the Master Plan or any portion thereof; or that there exists proposed public improvement which conflicts with such plan or other condition or circumstance which may involve injury or damage to the public health, safety or welfare. The Planning Commission shall afford a landowner or applicant an opportunity to be heard prior to taking any action to revoke approval of a preliminary plan by sending such owner or applicant

a notice by certified mail not less than five days prior to the date of the proposed action and giving the time and place thereof. The notice shall state the reasons for the proposed revocation.

- J. Sediment control. The approval of all preliminary plans and extensions of previously approved plans shall include provisions for erosion and sediment control, in accordance with the Montgomery County Erosion, Sediment Control and Stormwater Management Ordinance adopted by the Commissioners of Poolesville.
1. The Planning Commission, in its consideration of each preliminary plan or extension of previously approved plan, shall condition its approval upon the execution by the applicant of erosion and sediment control measures to be specified by the Planning Commission after receiving recommendations from the Montgomery County Soil Conservation District.
 2. One copy of each approved preliminary plan or extension of previously approved plan shall be referred to the Montgomery Soil Conservation District for review and recommendation as to adequate erosion and sediment control measures to prevent damage to other properties.
 3. The installation and maintenance of the specified erosion and sediment control measures shall be accomplished in accordance with the procedures for public works agreements as required by the Montgomery County Department of Permitting Services and its successors.
 4. Permits for clearing and grading prior to the recordation of plats shall be obtained from the Montgomery County Department of Public Works and Transportation subject to the granting of temporary easements and other conditions deemed necessary by the department in order to inspect and enforce the performance of the specified erosion and sediment control measures provided for in paragraph 1 above.
 5. In the event the applicant proceeds to clear and grade prior to recording of plats, without satisfying the conditions specified under paragraph 4, the Planning Commission may revoke the approval of the preliminary plan or extension of a previously approved plan.

Sec. 35. Final record plats-Specifications and supporting data.

- A. Part of approved preliminary plan. A final plan may include only a portion of the approved preliminary plan; provided, that the public improvements to be constructed in the area covered by the plat shall be sufficient by and of themselves to accomplish a proper development and to provide adequately for the health, safety and convenience of the present and future residents therein and for adequate access to contiguous areas, school and other public sites. Any proportional plat filed shall include dedication to the intersection of all roads abutting corner lots.
- B. Specifications. The final subdivision record plat shall be clearly and legibly drawn on material acceptable to the Planning Commission and suitable for recording in the Montgomery County Land Records. The size of the sheets shall be eighteen inches by eighteen inches, including a margin of one-half inch outside ruled borderlines. The record plat accompanying the application for approval shall contain the following graphic and descriptive items. The lack of information under any item specified herein or improper information supplied by the applicant may be cited by the Planning Commission as cause for disapproval of a record plat.
- C. Application. Written application by the owner or his agent for approval, on forms furnished by the Planning Commission, shall accompany each record plat and contain the following information:
1. Name of subdivision (subject to approval by the Planning Commission) and description of blocks and lots included on plat.
 2. Location of subdivision by County, election district, Town, special taxing area, place or locality name as applicable.
 3. Name, date of approval and file number of the preliminary plan upon which the record plat is based.
 4. Zoning classification of property.
 5. Total number of lots, outlots or parcels included on plat.
 6. Total area shown on plat, area dedicated to streets and total area dedicated to public use.
 7. Existing or proposed covenants, if any.

8. Name and address, including telephone number, of owner or owners and registered land surveyor who prepared the plat.
 9. Such other information as the Planning Commission may require.
- D. Drawing. The plat of subdivision shall be accurately drawn to a scale approved by the Planning Commission and shall include the following information:
1. Title. The title shall appear in the lower right-hand corner of the sheet, and shall include the following information:
 - a. Approved name of the subdivision and section thereof.
 - b. Election district, Town, County and State.
 - c. Scale of drawing and date of completion.
 - d. Name, seal and registration number of registered land surveyor who prepared the plat.
 2. Subdivision plan. All boundaries, street lines and lot lines, plus any other lines pertinent to the plan, shall be shown together with sufficient data, accurately calculated, to locate each line and property corner and to reproduce same upon the ground. The plan shall show the following items, as applicable in each case:
 - a. All property boundary lines necessary to identify the subdivision with the conveyance or part thereof by which the maker of the plat acquired the property. Where the subdivision is a part of such conveyance, the boundaries shown should include the last complete line touched on by the subdivision or an indicated dimension thereof. Where a subdivision includes all or parts of two or more conveyances the boundaries of such separate deed descriptions shall be indicated by light lines running through the subdivision, together with deed reference to each original tract or parcel.
 - b. Exact locations, widths and names of all streets within the subdivision.

- c. All easements established or rights-of-way provided for public services or utilities in the subdivision, and any limitations of such easements, plus recordation reference.
- d. Metes and bounds description(s) of any areas to be reserved for common use by residents of the subdivision or for general public use, with the purposes indicated thereon.
- e. Accurate bearings and lengths of all block and lot lines, together with the length of radii, arcs, tangents and chords with chord bearings and central angles for all curves in the layout. A curve table shall be used containing these data and referenced to the curves shown in the drawing.
- f. All bearings shall refer to the true meridian or the Maryland State Plane Coordinate System. The meridian used shall be noted alongside the north arrow, which is required on each plat. Plats of re-subdivisions may refer to the "Plat Meridian," meaning that used on the original subdivision plat. On plats of small subdivision, involving only one or two lots, in locations where no established control is available, reference to the "Deed Meridian" will be acceptable.
- g. The grid lines shall be shown around the borders of the plat with their coordinate values indicated thereon and the coordinates of the property line monuments shown on the plat shall be given.
- h. Accurate location of all monuments is required.
- i. Lots numbered in numerical order. In tracts containing more than one block, the blocks shall be lettered in alphabetical order. In case there is a re-subdivision of lots in any block, such re-subdivided lots shall be numbered numerically, beginning with number following the highest lot number in the block and the original lot lines shown dashed and original lot numbers dotted.
- j. Area of each lot, outlot, parcel or other unit shown on the plat.

- k. Front building lines, shown graphically with dimensions, where such exceed the required minimum specified in the Zoning Ordinance, and any other building restriction lines which may apply in a particular case.
 - l. Accurate bearings and lengths of tie connections between all adjacent blocks and other subdivisions.
 - m. Names and locations of adjoining subdivisions with lot and block numbers immediately adjoining, together with plat references.
 - n. Location and apparent ownership of adjoining un-subdivided property with land record or will references.
 - o. Key map showing location of subdivision when same is in an outlying area not adjoining a recorded subdivision. In case of a large subdivision requiring multiple plats, the key map shall show the location of previously recorded plats within the subdivision by section number.
3. Surveyor or engineer certificate. A certificate by a registered land surveyor or registered engineer satisfactory to the Planning Commission, certifying to the accuracy of the plat, to the placing of property line monuments and to areas included on the plat and dedicated to public use.
 4. Owner's certificate. A certificate by the owner and all parties of interest, in a form satisfactory to the Planning Commission, adopting the plan of subdivision, establishing slope easements and minimum building restriction lines and dedicating to public use, roads, streets, walks, utility and storm drainage right-of-ways, parks and other areas approved for dedication to public use by the Planning Commission.
 5. Approval box. An approval box in a form required by the Planning Commission shall be provided to indicate approval by the Planning Commission and Town Engineer.
- E. Road and street profile plans.
1. Town roads. Complete road and crosswalk profile plans approved by the Town Engineer and/or the County Department of Public Works and Transportation shall accompany each subdivision record plat submitted to the Planning Commission,

except in cases where the grades of the roads or streets have already been established, in accordance with the Montgomery County Road Construction Code.

2. Other roads and streets. For roads and streets within the jurisdiction of other governmental bodies, complete road and street profile plans in form required by the Planning Commission shall be submitted to the Planning Commission for approval. Road and street grades shall be determined by the Planning Commission.
- F. Storm drainage construction plan. Prior to approval of a record plat, the applicant shall furnish a storm drainage construction plan approved by the County and the Town Engineer.
- G. Other supporting data. Copies of any covenants, restrictions or joint-use and maintenance agreements which the applicant or developer may wish to record with his subdivision or which are in effect shall be submitted to the Planning Commission with the application for approval of the record plat, together with any other supporting plans or documents required pursuant to this ordinance and other applicable regulations.

Sec. 36. Same-Procedure for approval and recording.

A. Filing of plat with application and plat fee.

1. The applicant or his agent shall file the subdivision final (record) plat and all required supporting data, as specified herein, with the Planning Commission, together with application for its approval, and at the same time shall pay the required plat fee as established from time to time by resolution by the Commissioners of Poolesville.
2. The plat shall be deemed filed with the Planning Commission when it is filed with the Town Clerk; provided, that the Planning Commission shall have the authority to disapprove the plat within 60 days of its receipt if it finds that it does not conform to the approved preliminary plan, except for minor modifications, or with this ordinance and the specifications and procedures adopted pursuant thereto, and further provided that the disapproval is in writing and specifies the respects in which the plat is deficient.

3. The applicant may request reconsideration of a disapproved plat at the next regularly scheduled Planning Commission meeting following the action by the Planning Commission.
- B. Plat to comply with approved preliminary plan. No final (record) plat of subdivision shall be approved unless it complies with the preliminary plan as approved by the Planning Commission; except that, the Planning Commission may allow for minor modifications in the plan, which, in its opinion, do not alter the intent of its previous approval.
- C. Approval or disapproval. The Planning Commission shall approve or disapprove a final plat if all Subdivision Regulations have been complied with within 60 days after the submissions thereof. The applicant for the Planning Commission's approval may waive this requirement and consent to an extension of such period.
- D. Planning Commission may hold a hearing on any plan or plat. The Planning Commission may, upon its own motion, hold a hearing prior to acting upon any record plat or preliminary subdivision plan, at such time and place and on such notice as the Planning Commission may designate. All interested parties shall be entitled to appear at any such hearing.
- E. Signing and reproducing of plats.
1. All plats shall be signed by the Chairman of the Planning Commission as soon as the Planning Commission has acted to approve them.
 2. Upon signature of a finally approved record plat by the Chairman of the Planning Commission with the advice of the Town Engineer, processing of the plat shall be completed.
 3. The applicant shall cause reproductions of each plat to be made, of a quality equal to the standard established by the County in such numbers as are required by the Planning Commission.
 4. The original tracing of each final plat and the reproductions thereof required by the Clerk of Court shall have the official seal of the registered land surveyor who prepared the plat impressed thereon; likewise, if the maker of the plat is a corporation, its corporate seal shall also be affixed to such plat and to the reproductions for recordation.

5. An original reproducible mylar tracing of each plat so recorded shall be filed with the Town Clerk and placed in the Plat Book and shall remain there at all times unless required by court order as an exhibit. The reproductions required by the Clerk of Court shall be transmitted to him promptly upon completion of processing, for recordation in the land records, together with the appropriate recording fee.
- F. Completion or guarantee of public improvements prior to recording final plat.
1. Prior to the recording, of any approved final plat or portion thereof, the developer or applicant shall present satisfactory evidence to the Planning Commission that he has completed such arrangements, obtained such permits, bonds or provided such surety in accordance with applicable laws, regulations and requirements as will ensure final and proper completion and installation of all public improvements on the land, to be recorded, including those in subsection 2 below.
 2. Performance guarantees.
 - a. Performance bond. In order to ensure the construction and installation of roads, curbs, gutters, sidewalks, waterlines, storm and sanitary sewer lines, street trees, and other vegetation including reforestation, street lights, monuments and other public facilities, the applicant shall, prior to approval of a final plat, deliver to the Town a letter of credit satisfactory to the Town Attorney or a performance bond issued by a surety company authorized to do business in the State of Maryland and satisfactory to the Town Engineer, Town Attorney and the Commissioners of Poolesville in such amount as is estimated by the Town Engineer to be 125% of the total estimated cost of the construction and installation of the required public facilities including an additional amount to cover unforeseen contingencies.
Said bond shall run to the Commissioners of Poolesville, Maryland, and be conditioned as follows:
 - (1) That the applicant, his successors and assigns, will faithfully complete the construction and installation of the required public facilities within three (3) months after substantial completion of any building or structure which said facilities are

designed to serve, or within two (2) years of the date of approval of the public improvement agreement, which time may be extended for good cause shown to the Commissioners of Poolesville upon recommendation by the Town Engineer and the Planning Commission.

- (2) That the applicant, his successors and assigns, will comply with all the applicable ordinances and requirements of the Town.
- (3) That the applicant, his successors and assigns, will save harmless the Commissioners of Poolesville, from any expense incurred through the failure of the applicant, his successors and assigns, to complete the required public facilities, or from any damages growing out of the negligence of the applicant or his successors and assigns.

In lieu of the said performance bond or letter of credit, the applicant may deliver to the Town, cash or a certified check to be held in a separate escrow account in such amount as is estimated by the Town Engineer to be 125% of the total cost of the construction and installation of the required public facilities. Said cash or certified check shall be accepted under the above-mentioned terms and conditions.

- b. Acceptance by Town and release of performance bonds. All applicants, their successors and assigns shall comply with all applicable ordinances and regulations of the Town, and until the required public facilities are accepted for maintenance by the Town, the said applicants, their successors and assigns shall remain liable therefor. After completion and final inspection of said public facilities, the Town Engineer shall recommend that the Commissioners of Poolesville either accept said facilities upon a finding that the construction of same has complied with all applicable ordinance and regulations, and release the bond, or he shall recommend rejection of said facilities or any part

thereof by written notification to the applicant specifying the reasons for such rejection by reference to the particular ordinance or regulation, which has been violated, and allow a reasonable time, to be specified therein, for such applicant to comply. If the applicant does not thereafter, within the time specified, complete the construction according to the provisions of the applicable ordinance or regulation then the Town Engineer may recommend to the Commissioners of Poolesville to do whatever is necessary to cause the construction to comply with all ordinances or regulations and the applicant shall be liable for any expense incurred thereby.

- c. Payment bond. In order to assure payment to all persons supplying labor and materials, including lessors of equipment to the extent of the fair rental value thereof, to the applicant or his contractor or subcontractor in the prosecution of the construction and installation of the required public facilities, the applicant shall, prior to approval of a final plat, deliver to the Town a payment bond issued by a surety company authorized to do business in the State of Maryland and satisfactory to the Town Engineer and Town Attorney for the use of each such person in such amount as is estimated by the Town Engineer to be the total cost of the construction and installation of the required public facilities. The rights and responsibilities of all persons in relation to such bond and the procedures for enforcement of such bond shall be the same as those specified for bonds required under the provisions of § 9-112 of the Real Property Article of the Annotated Code of Maryland as now constituted and as it may hereafter be amended from time to time.

Sec. 37. Variations from requirements of ordinance.

A. Authority of commission.

1. Hardship. Where the land involved in a subdivision is of such size, shape or is subject to such title limitations of record or is affected by such topographical conditions that it is impossible or impractical or would cause singular and unnecessary hardship to conform fully to this ordinance, the Planning Commission may consider such variation from the

provisions of this ordinance as may be reasonably necessary to grant relief; provided, that the variation shall not have the effect of nullifying the intent and purpose of the Master Plan and the public interest shall be protected. In such cases, it shall be the applicant's responsibility to provide sufficient data to justify the hardship exemption. The Planning Commission shall outline its reasons accepting or rejecting the application in the public record. The Planning Commission is authorized to hold a public hearing on the application if it desires.

2. Preservation of open space, forest and tree conservation and natural topography or prevention of soil erosion in the P-RDT zone. For subdivisions involving lots which are in the P-RDT zone and capable of being served by individual water and sewer systems, the standards and requirements of this ordinance may be modified by the Planning Commission as long as such modifications do not violate the basic intent and purposes of these regulations. Approval of a large lot subdivision under this section shall be contingent on the provision that if any re-subdivision is requested, the re-subdivision shall only be approved if all public facilities are upgraded to meet the needs of such re-subdivision and that all conservation efforts regarding forests and/or trees are complied with. Approval of subdivisions involving lots which are capable of being served by individual water and sewer systems shall also be contingent upon compliance with any appropriate Town restrictions, requirements and policies for individual water and septic systems including any governmental requirements designed to protect the quality and quantity of underground water supplies.
 - a. Wells and septic systems. Before submission to the Department of Environmental Protection, all preliminary subdivision plans for lots in areas where individual wells, and septic systems are to be installed shall show, in addition to the usual data, the following items:
 - (1) The proposed location of water wells for each lot. Where there are existing wells on the property or on adjoining lots within one hundred feet, they shall also be shown.

- (2) A circular area with radius of one hundred feet around each well to denote clear space in which no final sewage system is to be located.
- (3) The "usable area" for sewage disposal, which shall be situated beyond the one hundred foot radius and downgrade from the proposed house location and shall all be in virgin soil.
- (4) Any existing sewage disposal systems on the property or on adjoining lots within one hundred feet.
- (5) Wetlands, rock outcrops and flood plains, when the same exist.
- (6) A ten-foot zone surrounding the water service line to buildings, free and clear of any sewer lines, systems or part thereof.

B. Procedure for granting variations.

1. Written request to the Commission. A request for a variation from this ordinance shall be addressed to the Planning Commission in writing, stating all facts warranting variation.
2. Referral for recommendations. The Planning Commission shall refer a copy of each request to the Town Engineer, Montgomery County Department of Public Works and Transportation and the State Highway Administration and Maryland Department of the Environment for investigation, report and written recommendation before acting upon such a request. Such report and recommendation shall be submitted to the Planning Commission within forty-five days or the recommendation shall be presumed to be favorable in the discretion of the Planning Commission. A request for a variation, filed pursuant to this section, shall constitute a waiver of the time requirements set forth in this ordinance and shall extend time permitted for such review for a period of forty-five days.

3. Resolution. The decision of the Planning Commission shall be in the form of a resolution adopted by the Planning Commission by a majority of those voting provided that a quorum is present; and a copy of said resolution shall be forwarded to each agency mentioned in paragraph 2 above.
 4. Conditions. In granting a variation, the Planning Commission may require such conditions in lieu of full compliance as will, in its judgment, secure substantially the objectives of the requirements so modified and protect the public interest.
 5. Final approval. Final approval of any variation pursuant to this section shall rest with the Planning Commission.
- C. Nonwaiver of other ordinances. Notwithstanding the provisions herein, the Planning Commission shall not be authorized to vary or modify the provisions of the Zoning Ordinance, the Road Construction Code, the Building Code, health laws or other ordinances or regulations of the Town or applicable therein.

Sec. 38. Public utilities.

- A. General. Pipelines, electric power and energy transmission and distribution lines and cables, telephone and similar cable transmission lines and cables shall be underground.
- B. Installation. During construction, temporary overhead lines shall be permitted for six buildings or less in a subdivision at one time.
- C. Completion. No final approval of a plat or portion thereof shall be granted by the Planning Commission, unless the developer or applicant presents to the Planning Commission, certificates or commitments from utility companies or public agencies, having responsibility for the installation of utilities to serve the subdivision, that he has completed such arrangements as will insure the full, final and proper completion and installation of the utility lines by such utility companies or public agencies.

Section 2. Severability.

The provisions of this Ordinance are severable, and if any provision, clause, sentence, section, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity or unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts of the Ordinance or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional provisions, clause, sentence, section, word or part had not been included therein and if the person or circumstances to which the Act or part thereof is inapplicable had been specifically exempted therefrom. Revisions to this Ordinance shall be undertaken pursuant to Section 66B Annotated Code of Maryland.

Section 3. Effective Date.

This Ordinance shall become effective immediately upon its adoption.

Commissioners of Poolesville

