

**SB 236 Comments Received
June through August 2012**

Appendix 4

Comment sources listed are: PM = public meeting; PC = public comment through email or other written correspondence; BIA = from the Maryland-National Capital Building Industry Association. Comments are listed generally in the order in which they were received.

	Comment (source)	Staff Response
LAND VALUE		
1	How will the Tier IV designation affect property values and the value of the land? (PM)	<p>The effect of Tier IV designation on property would likely depend on the particular circumstances of that property. Land values are determined by the market, generally based on the “highest and best use” of a property. The financial institutions want to guarantee they will recoup their money in case of a foreclosure.</p> <p>Staff of M-NCPPC and MDP have agreed to discuss this issue in more depth and do some research on how the definition of “highest and best use” might be modified.</p>
2	How much money was allocated by the state to compensate landowners for their lost value? Does this bill put money into the Maryland Agricultural Land Preservation Program (MALPF)? (PM)	No money was put into the MALPF program through this bill, nor did the bill allocate funds to compensate land owners. If the septic tiers are adopted, an application for MALPF certification will be submitted shortly thereafter. The hope is that MALPF certification will be approved so that the county will be eligible to receive 75 percent of the agricultural transfer tax to be used for agricultural preservation.
3	How does this affect landowners who have applied for easements through soil conservation? (PM)	The properties that have applied are still eligible to obtain payment in exchange for conservation easements. It is possible that the appraisals will come back at a lower value because of the bill, resulting in a lower value being paid for the conservation easements.
4	In the past landowners have sold tree conservation easements to developers. How does this program affect the current program? (PM)	SB 236 does not impact existing or proposed woodland conservation banks. Where possible, different easement programs that are available to landowners can be layered to incentivize the preservation of more land for agriculture. County agencies will continue to work together to ensure that the maximum value can be obtained by property owners for land preservation.
5	Easements take too long to get approved. (PM)	M-NCPPC staff will investigate where the problems are and work to resolve them to shorten the process. There are ranking criteria for the easement process and so every year as easements are secured, properties in the queue move up on the list.
SUBDIVISIONS		
1	What constitutes a “minor subdivision”? (PM)	The Prince George’s County Code (Subtitle 24) defines a minor subdivision as creating up to four residential lots in a residential zone. SB 236 allows local jurisdictions who have a minor subdivision definition to change it to seven lots by December 31, 2012.

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2	How will the bill affect family transfers of land? Will only four lots be allowed? (PM)	If a property owner has already deeded land to family members, those lots are grandfathered and only the remainder of the property will be subject to the four lot maximum. If a Preliminary Plan of Subdivision is accepted by October 1, 2012, that application is grandfathered. This is the ONLY deadline that applies in Prince George's County.
3	Please provide more information on the Transfer of Development Rights (TDR) option outlined in the bill. (PM)	According to SB 236, development rights can only be transferred from a property in Tier IV to another property in Tier IV. Properties in Tier III cannot transfer rights to properties in Tier IV. The question of whether properties in Tier IV can transfer rights to Tier III or elsewhere is under discussion at MDP. A property owner can only sell up to seven development rights and a property owner can receive up to 15 lots. Transfers of development rights cannot cross county lines. TDR legislation would have to be approved by the County Council.
4	What are the perk test requirements /deadlines to be grandfathered? (PM)	Deadlines for having a perk test done do not apply in Prince George's County because the county does NOT require a perk test PRIOR to an application for subdivision (see paragraph F on page 13 of the bill).
5	What threshold must be reached to grandfather a property for future development? (PM)	An application for a Preliminary Plan of Subdivision that has been accepted by the Planning Department prior to October 1, 2012.
6	If there is an existing main house and four existing tenant houses, can the property still be subdivided with four more lots? (PM)	Tenant houses are permitted in the O-S, R-A, and R-E zones by Sec. 24-424.01(a)(1). This provision below does not require a separate lot.
7	Consider increasing the number of lots in a minor subdivision from 4 to 7 lots. (BIA)	The staff report addresses this suggestion and provides research on the possible impacts.
8	The subdivision bill appears to render subdivisions by deed illegal in Tier IV. This adds a lot of expense, time and requirements for review to these normally exempt actions. (BIA)	Because SB 236 requires that when a division of land occurs the number of lots remaining must be noted on a plat, the ability to divide land by deed was eliminated by the state. The draft subdivision bill addresses this situation by continuing to allow the division of land in certain circumstances without a preliminary plan of subdivision, while replacing the deed process with a minor final plat process.

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9	Clarify the application of the exemptions from the preliminary plan process as they apply countywide. (BIA)	The revised draft bill that is part of the staff report has addressed this comment.
10	Changing the Planning Director’s ability to impose “conditions” instead of “modifications” is a substantial change. (BIA)	This change is intended to reflect the current practice of allowing applications to be approved by the Planning Director before all the necessary changes to the plans have been completed.
11	Clarify that conservation subdivisions are still allowed on minor subdivisions in Tier IV. (BIA)	Conservation subdivisions will continue to be allowed throughout the county as noted in 24-152.
12	Clarify that major subdivisions are not allowed in Tier IV by making 24.122.01 its own section. (BIA)	The revised draft bill that is part of the staff report has clarified this requirement.
13	Clarify that a new finding for an APF test is not being required by the Planning Board when it approves a final plat. (BIA)	The revised draft bill that is part of the staff report has addressed this comment.
14	Section 24-107 (3) Add also conveyance to nieces or nephews. This would help preserve family farms. (PC)	Adding nieces and nephews would be a significant policy shift in the county. The purpose of the legislation is not to expand the number of lots allowed without subdivision review beyond what currently exists.
15	What are the meanings of the retroactive dates on various transfers? (PC)	If this comment is referring to the grandfathering dates in SB 236, the only grandfathering date that applies in Prince George’s County is the one regarding the acceptance of a subdivision application prior to October 1, 2012. To be grandfathered, a subdivision must already be approved or the application must be accepted by that date.
16	Cluster Subdivision cases – appeals crossed out. Does this mean no cluster subdivisions – no appeals to District council or what? (PC)	This amendment has been removed from the draft bill. Cluster subdivisions are no longer allowed in the county. A future subdivision bill will address this edit.

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17	Section 24 135.02 Cemeteries – nothing listed. Does this mean cemeteries are excluded? (PC)	Yes, SB 236 only relates to single-family residential and agricultural uses. A cemetery does not fall into either category of uses.
18	Change the wording to make the draft subdivision bill a stand-alone that does not need to reference Section 9-206 of the state code. ... (ie., refer to the Section 9-206 of the Environment Article as the State Senate Bill 236, and use the wording as the State Bill uses it.) (PC)	The draft subdivision bill was written in a manner that provides consistency with the other sections of the County Code. In order to appropriately reference the applicable elements of state code, the section of state code must be referenced.
19	In accordance with the authority given within the Bill, change the number of on-site sewage disposal systems authorized for property used for agricultural activities to the same numbers allowed by the Bill. This number changes with acreage from four to seven. Action of this sort will modify the value of the agricultural land, and assist the maintenance of agriculture in the County. (PC)	The staff report addresses this suggestion and provides research on the possible impacts.
20	Re define and increase the minor subdivisions to be the same numbers as listed in the Senate Bill, with the possibility of going up to fifteen with the benefit of transferring rights. (PC)	As noted in the definitions section of SB 236, the first option listed is for the local jurisdictions to use their existing definition. The bill allows a change to seven lots maximum. A transfer of development rights program is not being proposed at this time because there was insufficient time to address a program in the bill and meet the December 31, 2012 deadline.

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21	Change the mapping options to include only the areas that have been designated by the County Council as Priority Preservation Areas as Tier 4 areas. Also delete the designated Rural Villages from Tier 4 designation. (PC)	Mapping Option C shows only those areas designated as PPA as being part of Tier IV. The areas shown on previous drafts as possible Rural Villages have been removed from the maps.
EFFECT ON NEW DEVELOPMENT		
1	What effect will this legislation have on new development? (PM)	<p>If the four tiers are not adopted by December 31, 2012, no new major residential subdivisions outside of areas currently served by sewer can be approved (five or more lots). This is the Tier I area as shown on the map and is equivalent to properties in water and sewer categories 3 and 4.</p> <p>All new subdivisions will have to be tracked regarding their grandfathering status. Prince George’s County already does this.</p>
2	How long will the tiers be in effect? (PM)	The tiers that are adopted “administratively” by the County Council by December 31, 2012 will be in place until the General Plan is updated to include the septic tiers.
3	Will it still be possible to build a tenant house on a farm without going through the subdivision process as it is allowed today? (PM)	Tenant houses are permitted in the O-S, R-A, and R-E zones by Sec. 24-424.01(a)(1). This provision below does not require a separate lot.
EXEMPTIONS		
1	Does this legislation create a requirement for 20-acre zoning? (PM)	<p>This bill does not require a change in zoning. SB 236 allows jurisdictions to request an exemption from the bill, if the jurisdiction can demonstrate to MDP’s satisfaction that the current and on-going “actual overall yield” is not more than one dwelling unit per 20 acres. Land that is in either public ownership or under easement is removed from this calculation.</p> <p>The majority of the land within the Rural Tier in Prince George’s County contains land zoned at one dwelling unit per two acres and five acres and as such does not come close to the 1:20 ratio for zoning to be able to qualify for this exemption.</p>

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OTHER		
1	Why does the county charter not apply to this intrusion on land use in Prince George's County? (PC)	Under our system of government, the counties are creations of the state and state law reigns supreme. Counties are not permitted to enact legislation or adopt charters that would counteract state law if the state law is a public general law that applies to two or more counties. This situation is basically analogous to the relationship between the states and the federal government.
2	Allow public water and sewer in all tiers to minimize the number of properties on septic systems. Eliminate the water and sewer category change process. (BIA)	The water and sewer category change process assists in the orderly development of land where adequate water and sewer service is available. The provision of public water and sewer in rural areas would lead to over development of areas intended to remain rural and exceed the capacity of existing wastewater treatment plants. In many areas of the Rural Tier, the provision of public sewer would result in the need to construct a new wastewater treatment plant when using gravity fed sewer systems or the need to construct pumping and/or grinding stations to overcome topographical impediments. Both options are financially prohibitive.
3	Support for mapping Option C to create the largest amount of Tier III land. (BIA)	Duly noted. It does not appear that Option C meets the recently clarified criteria for Tier IV areas as delineated by MDP on their website. Much of what is shown as Tier III on Option C (that is not Tier III on Options A or B) contains, by MDP's direction and recently published mapping, areas that are dominated by agricultural and forest uses. These areas are to be placed in Tier IV per the guidance provided by MDP.
4	Use the General Plan tiers for this analysis as they existed when the plan was approved in 2002. (BIA)	The tier boundaries were adjusted several times by actions of the County Council between 2002 and 2012. The current tier boundaries are the boundaries that are required to be used for this analysis.
5	Maps – what is the criteria for the different maps? (PC)	The staff report provides descriptions of the maps and the reasons for the delineations of Tiers III and IV.
6	Rural Villages – “if adopted” what would be the legislation for adoption as a rural village? (PC)	The method of adoption of a Rural Village is through the General Plan, Master Plan or Sector Plan processes. These processes require a public process and approval by the Planning Board and adoption by the County Council.