

SUBDIVISION CONTROLS

Zoning alone, which deals essentially with lot sizes, building sizes and locations, and the types of activity to be permitted in certain areas, cannot be expected to guarantee pleasant development. Other tools must be called on for the creation of living environments possessing charm and character.

Take the hypothetical case of yourself and a friend of yours, and assume that you both bought houses in the suburbs ten years ago. There was little difference between the houses you bought: both were in sparsely built-up areas, the zoning was identical, the houses were in the same price range and built of comparable materials. No one could say that one was a better buy than the other . . . at that time. Today it is all too obvious who got a bargain and who got stung.

The environs of your friend's house are still substantially wooded; the neighboring residences are attractively landscaped, well spaced, and barely visible from the road; a nearby stream valley has become a park. Whereas your house sits starkly in the middle of a treeless plain; rows of monotonously similar houses stretch out on both sides of you; the stream that once meandered pleasantly past your back lawn is a muddy, eroded ditch. Was your friend a wiser buyer than you, or what happened?

What happened was that your friend was lucky in the sub-

No plat of any subdivision of land within the Regional District shall be admitted to the land records of either Montgomery or Prince George's County, or received or recorded by the clerks of the courts of said counties, until the plat shall have been submitted to and approved by the Commission and such approval be endorsed in writing on the plat by its Chairman and Secretary. The filing or recordation of a plat of a subdivision without the approval of the Commission is void.

—Regional District Act

urban roulette game and you weren't. In your friend's case, individuals with an appreciation for the landscape bought the nearby properties; in your case developers with their earth-moving equipment got there first. All you could do was watch the destruction from your picture window and wish there was someone to sue. There wasn't, because no zoning ordinances were violated, and in this hypothetical case there were no subdivision regulations to back-up the zoning.

Subdivision controls are concerned with the *quality* of individual developments, taking up where zoning leaves off. They can go far towards protecting the money and personal efforts that go into the making of an attractive home. Subdivision regulations require that a registered professional engineer take the responsibility for laying out the new lots and streets in accordance with publicly adopted master plans, zoning regulations, and sound engineering practices. Various governmental agencies including the Park and Planning Commission check the plans to see that all necessary utilities are available, and that all public regulations have been complied with. Proper street widths, street grades, drainageways, pedestrian walkways and reservations for public parks or buildings are required. Streets must intersect at safe angles. Excessive numbers of intersections and through streets in residential neighborhoods are discouraged. Thus the quality of development is raised.

But even with the present subdivision regulations, high quality development is not guaranteed. Much land is being divided into lots prematurely, without adequate reservations or dedications of land for public purpose, and with too little regard for conservation practices. Public agencies too often disregard subdivision regulations altogether in cases involving their own properties. Pedestrian walkways are not always adequately provided, and developers attempt to lay out lots too close to airfields. These deficiencies need attention now.

PREMATURE SUBDIVISIONS

The review of subdivision plans should occur shortly before development of the property in question. Too often in the past subdivision plans have been approved regardless of whether the subdivider could start construction, right away, ten years later, or never, and the approval cannot be rescinded at a later date. As a result, the eventual use of the idle property is frozen, even though surrounding lands may have been developed in an entirely different manner. Obviously, approval of the plans as near as possible to the actual time of development is necessary to prevent developments that are grossly out of keeping with their surroundings.

A start toward eliminating premature subdivision of land has been made in Montgomery County with the recent adoption of a requirement for the posting of performance bonds before subdivision plats become officially recorded. This guarantees that development is imminent, that a financially able developer is on the job, and that all public improvements such as streets and sewers required for the protection and welfare of home buyers will be constructed. A similar requirement has been recommended to the Prince George's County Commissioners.

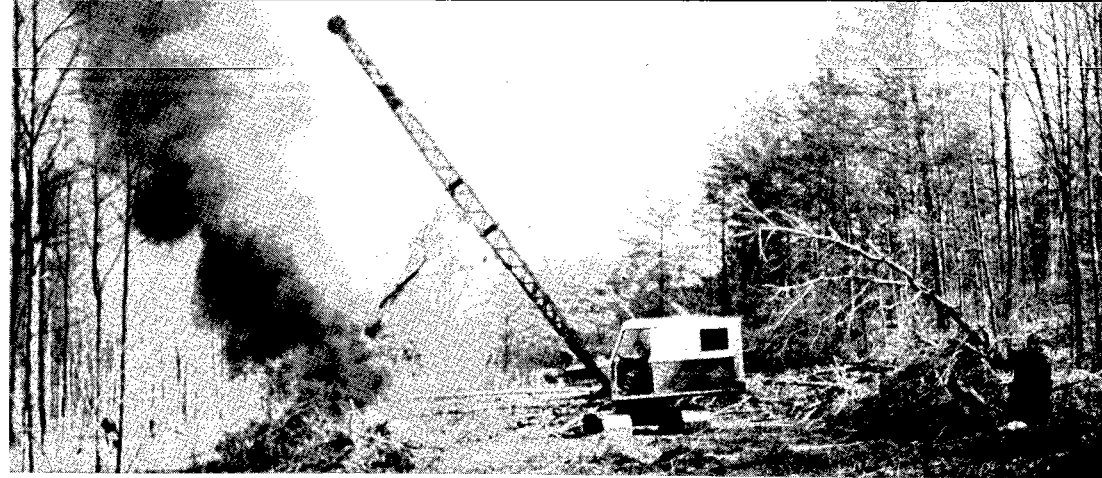
Zoning adopted in conformance with this General Plan, and in accordance with the staged procedures recommended, will avoid premature subdivisions by making large scale subdivisions uneconomical in the rural zoned areas.

The State enabling act gives the Planning Commission, with cooperation from the governing bodies of Montgomery and Prince George's Counties who must adopt the local regulations, the right to control subdivisions in order to provide for:

The avoidance of such scattered or premature subdivision 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 . . .

These provisions clearly enable the denial of premature subdivisions, and would have particularly wide application where the subdivisions would "necessitate an excessive expenditure of public funds . . ." This provision can become an important tool in accomplishing one of the major goals of the General Plan: to concentrate developments and public services within the urban corridors, while keeping the rest of the countryside open or only sparsely developed. The authority and intention of using this power to deny premature subdivisions should be explicitly spelled out in the locally adopted subdivision regulations.

ACTION: 1) Adopt a requirement for performance bonds in the Prince George's County subdivision regulations. 2) Clarify the wording of subdivision regulations in both counties, indicating the intention and ability to deny premature subdivisions.



The same Maryland law quoted above authorizes the enactment of regulations to reserve land from proposed subdivisions for schools, public buildings, parks, playgrounds, and other public purposes. Such reservations have in fact been applied to subdivisions in the Regional District.

Under present limitations, however, the regulations are not operative until after the developer has filed his subdivision plan for approval. In the meantime, serious damage may have been done to the required public sites. A potential developer can do practically anything he wishes with his land, short of building on it, as soon as he takes title. No permit is required to remove all the trees and regrade the land before filing an application for a subdivision. The damage is often irreparable.

Several things should be done to remedy this deplorable situation. Initially, action should be taken by the respective counties to enact and use ordinances to regulate large scale clearing and grading of land.

A corollary tool will be the "Park and Conservation Plans" adopted as elements of future detailed master plans. These plans will identify areas of unusual conservation importance and propose measures for preservation and proper development.

The Planning Commission needs legislation allowing it to initiate reservation plats in cases where greater certainty of control is required for lands designated for public use on adopted master plans.

The present three-year time limit on reservation plats has proved too short to assure public purchase within that time. As things now stand, a reserved piece of land not bought by the public within three years can be reclaimed and used by the private owner contrary to the public interest. An extension of the time limit should be sought from the State Legislature and all government agencies for whom land is reserved should take steps to provide adequate land acquisition funds for this program. Affected agencies are primarily the County governments, the State Roads Commission, the National Capital Transportation Agency, the Park and Planning Commission, and the School Boards.

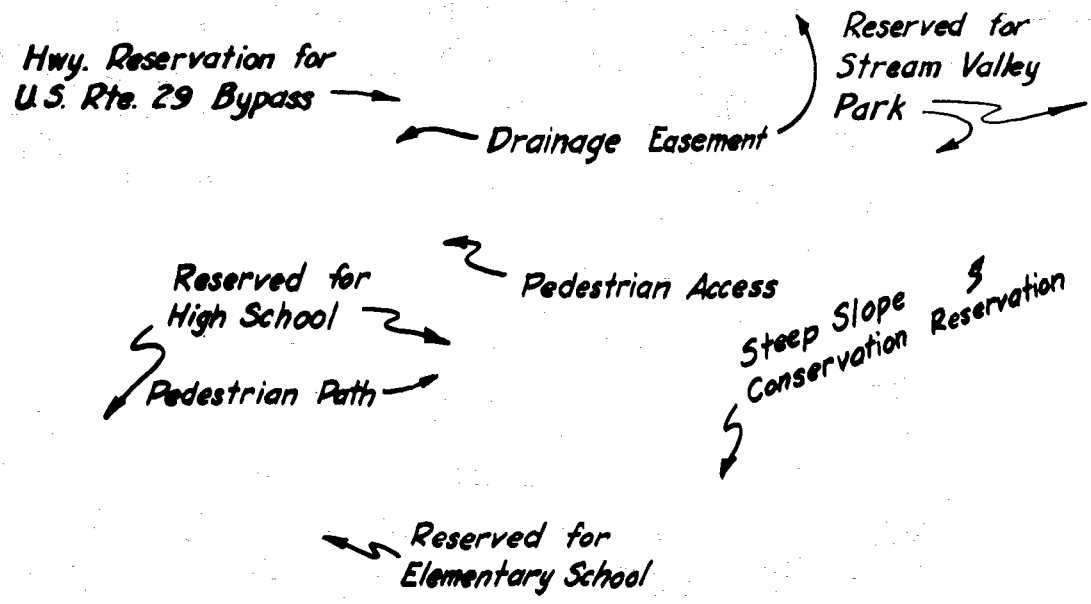
Reservations of land for future rapid transit facilities and rights-of-way should be specifically among the purposes stated in the State enabling act and the local subdivision regulations so that no possible question can be raised on this point.

Local streets, pedestrian walkways, conservation areas, and occasionally parks traditionally have been required to be dedicated for public use. The need for these facilities is directly related to the new development and there is no question of who benefits. Unusually large subdivisions have been required to dedicate school sites because only this one subdivision would benefit from the school. A series of small subdivisions, however, can produce just as much need for public land as a single large one. Yet none of the small subdivisions is large enough to contribute anything except its part of the street system.

In some states, fees are charged for subdivisions when the area to be developed is too small for the dedication of lands needed for schools, playgrounds, and other public purposes. This provision is eminently fair since the residents of the new subdivision will have to use schools and other public facilities which must be located on other land, acquired from other owners. Obviously the subdividers of such tracts have an obligation to shoulder their share of the burden. In some cases the small subdivision may be located so that it can dedicate a portion of the land needed for public use; in other cases, the obligation would be met entirely by means of fees in lieu of such dedication. The fees should be made proportional to the number of dwelling units constructed, and should be paid by the developer. These fees should be spent for improvements to the local area where they are collected.

Present enabling acts do not provide for such fees. A revision of State law providing power to require fees in lieu of dedication of public lands should be sought as a means of providing revenue for land acquisition without constantly increasing the burden on the taxpayer.





In cases where conservation measures need to be developed or applied to protect the public interest, the required clearing, grading, seeding, landscaping, and other improvements should be included in the subdivision performance bond guarantee. This is especially true for land to be turned over for public maintenance. The park and conservation element of detailed master plans will be a great help in determining the proper treatment for individual parcels of land.

Natural stream beds, steep slopes and flood plains can be protected and turned into assets through the use of subdivision controls. Buildings can be kept off unsuitable portions of land by the establishment of building restriction lines. Stream valleys can be turned into dedicated or reserved storm drainage and recreational facilities. The street layout can be required to take the routes requiring least bulldozing and disruption to natural features of the land and natural vegetation.

The maintenance of conservation areas turned over to the public could be financed by special district taxes or benefit charges.

In the past, awkward situations have arisen because some public agencies have failed to record their properties through the regular subdivision procedures. These procedures are designed to provide the service of checking properties for conformance to highway and other plans affecting the proper location of buildings and to establish record plats clearly showing correct property and building lines. It is not only a convenient way to avoid conflicts, it is also an important aid to coordinating the location of public services in accordance with the General Plan. The subdivision regulations should be amended to unmistakably require subdivision approval of all public building sites as one step in complying with the long accepted practice making it mandatory that all public land and construction projects be referred to the Park and Planning Commission for coordination with adopted plans.

The Outdoor Recreation Resources Review Commission has identified walking for pleasure as an outdoor recreation activity second only to driving for pleasure in terms of popular participation. And it is a growing activity. Walking also remains an important means of transportation, especially for school children.

However, pedestrian traffic does not mix well with automobile traffic. It is largely up to subdivision controls to provide adequate walkways. This may be done by including extra widths for sidewalks in street rights-of-way, by requiring special walkway dedications where streets do not exist, and by providing for pedestrians in reserved or dedicated conservation and park areas.

Akin to pedestrian traffic is bicycle traffic. The same methods may be used in providing for both.

Airport flight paths and noise areas, in this day of large planes and powerful jet engines, become even less suitable for human occupancy than flood plains, swamps, and steep slopes. The Federal Housing Administration has recognized this by refusing to insure housing mortgages in such areas. Even the

United States Supreme Court has spoken on the subject, saying that damages in these areas are such as to make airport owners liable for them.

Local subdivision regulations should recognize flight path and noise areas as unsuitable for residential construction. The Federal Aviation Agency is cooperating in the task of defining the precise areas affected. When airport areas unsuitable for subdivision are adequately identified they should be mapped and zoned for protection of the public health, safety and welfare. Meanwhile, subdivisions in questionable areas should be denied subject to reapplication when the problem areas are clearly defined. The General Plan map shows the approach zones within which development should be discouraged.

Some areas that are already subdivided and developed may have to be bought and abandoned under urban renewal or similar programs.