

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2001 Legislative Session

Bill No. CB-5-2001

Chapter No. _____

Proposed and Presented by Council Member Maloney

Introduced by Council Member Maloney

Co-Sponsors _____

Date of Introduction October 16, 2001

SUBDIVISION BILL

1 AN ACT concerning

2 Adequate School Facilities

3 For the purpose of amending the adequate school facilities tests in Subtitle 24 and allowing
 4 appeals of Planning Board decisions to the District Council.

5 BY repealing and reenacting with amendments:

6 SUBTITLE 24. SUBDIVISIONS.

7 Section 24-122 .02

8 The Prince George's County Code

9 (1999 Edition, 2000 Supplement).

10 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
 11 Maryland, that Section 24-122.02 of the Prince George's County Code be and the same is hereby
 12 repealed and reenacted with the following amendments:

SUBTITLE 24. SUBDIVISIONS.

DIVISION 3. REQUIREMENTS: PLANNING, DESIGN, AND

PUBLIC FACILITIES

Sec. 24-122.02. School Facilities Tests.

17 (a) At the time of a preliminary plat of subdivision, the Planning Board shall apply an
 18 initial adequacy of school facilities test in accordance with paragraphs (1), (2), or (3), below:

19 (1) [The] If the number of students generated by the proposed subdivision at each
 20 stage [of the proposed subdivision] will not exceed one hundred [five] ten percent [(105%)]

1 (110%) of the rated capacity of the affected elementary, middle, and high schools, as determined
2 by the Planning Board pursuant to the guidelines provided in (A) through (C), below.

3 (A) The number of elementary, middle, and high school students generated by
4 the proposed subdivision shall be determined in accordance with the pupil yield factors for each
5 dwelling unit type as determined by the Planning Board upon [historical] information provided
6 by the Board of Education.

7 (B) [Based upon the advice of the Board of Education, the] The elementary,
8 middle, and high schools serving the [property at the time of review of the] subdivision shall be
9 determined, on advice from the Board of Education, and shall be considered the "affected"
10 schools.

11 [(C) The projected five-year enrollment, as determined by the Planning Board in
12 cooperation with the Board of Education and any other County or State agency deemed
13 appropriate, for each affected school shall be added to the number of students generated by the
14 proposed subdivision as determined in subparagraph (A), above, plus the number of students
15 generated by approved preliminary plats since the most recent annual enrollment projections.]

16 (2) [The total projected number of students for each affected school, as determined in
17 subparagraph (C), above, shall be compared to the rated capacity of each affected school and an
18 adequate public facilities fee shall be calculated by multiplying the number of students generated
19 by the proposed subdivision above the one hundred five percent (105%) rated capacity in
20 accordance with the following schedule:

21 (A) \$9,000 per elementary school student;

22 (B) \$12,000 per middle school student;

23 (C) \$10,000 per high school student.

24 Such fee is to be paid at time of issuance of a building permit, unless the application is subject to
25 the provisions of Subsection (a)(4), herein.

26 (3) An addition to [the] an affected school or a new school to serve the [students
27 generated by the] proposed subdivision has been funded by the State in an adopted State of
28 Maryland annual budget bill in accordance with Article III, Section 52, of the Maryland
29 Constitution, and if the projected enrollment of the new or expanded school will not exceed one
30 hundred five percent (105%) of its rated capacity.]

1 [(4)] (3) If the students to be generated, as determined [in Subsections] under
 2 Subsection (a)(1) [and (2), above, exceed], exceeds one hundred [thirty] ten percent [(130%)]
 3 (110%) of rated capacity at any affected school, no permits may be issued for the [development]
 4 subdivision until[:

5 (A) Capacity] capacity exists below one hundred [thirty] ten percent [(130%)]
 6 (110%) in all affected schools[; or

7 (B) Four (4) years have elapsed since the time of the approval of the preliminary
 8 plan of subdivision.

9 (5) Whenever an adequate school facility fee is charged, it shall be offset by the full
 10 amount of the school facilities surcharge imposed on the same property].

11 (b) On and after the effective date of Council Bill 5-2001, the Planning Board may not
 12 approve a preliminary plat of subdivision or a final plat of subdivision if the number of students
 13 generated by the proposed subdivision at any stage exceeds one hundred ten percent (110%) of
 14 the rated capacity of any affected school, as determined under the rules in Subsection (a)(1)
 15 above.

16 (c) Planning Board action approving or disapproving a final plat under Subsection (b) may
 17 be appealed to the District Council by any person of record. The appeal shall be filed with the
 18 Clerk of the Council within 30 days of the Board's notice of action. The appeal shall be based on
 19 the record and accompanied by a statement why the Board's decision should be reversed or
 20 modified. After review of the record, the District Council may reverse or modify the Board's
 21 decision or remand the case to the Board for further specific determinations.

22 (d) (1) Regardless of any previous adequate public facilities test, a building permit shall
 23 not be issued for any lot shown on a record plat that has been recorded for more than six (6)
 24 years until the Planning Board has applied a final adequate school facilities test in accordance
 25 with [paragraphs (1), (2), and (3), below] this Subsection (d), unless on or before April 1, 1999,
 26 street construction permits have been issued by the County Department of Public Works and
 27 Transportation (DPW&T) or a municipality for public streets shown on the approved preliminary
 28 plan for the subdivision. Said street construction permits shall be maintained in the active status
 29 until the streets have been constructed in accordance with DPW&T or the municipality
 30 standards, and all public streets shown on the preliminary plan shall be bonded, permitted, and
 31 constructed without unreasonable delay. Failure to have or to maintain said street construction

permits in an active status or complete construction of the streets shall subject all future building permits to a final adequate school facilities test by the Planning Board in accordance with [paragraphs (1), (2), and (3), below] this Subsection.

[(1)] (2) If the number of students measured under Subsection (a)(1) exceeds one hundred [five] ten percent [(105%)] (110%) of the rated capacity of any affected [school(s)] school, using the most recent actual enrollment data, [instead of projected enrollment data, the applicant may pay an adequate school facilities fee equal to the cost of a permanent seat for each student generated by the subdivision above the one hundred five percent (105%) rated capacity] then the application shall be denied. On or before October 15 of each year, the Planning Board shall publish the actual enrollment data received from the School Board and shall utilize that data during the forthcoming twelve months including adequate public facilities determinations. Any applicant whose subdivision application has been denied may reapply when new actual enrollment data is published.

[(2)] The adequate school facilities fee shall be determined by multiplying the number of students generated by the proposed subdivision above the one hundred five percent (105%) rated capacity in accordance with the following schedule:

- (A) \$9,000 per elementary school student;
- (B) \$12,000 per middle school student;
- (C) \$10,000 per high school student.

(3) If the students to be generated as determined in Subsections [(b)] (d)(1) and (2), above, exceed one hundred thirty percent (130%) at any affected school, no permits may be issued for the development until:

- (A) Capacity exists below one hundred thirty percent (130%) in all affected schools; or
- (B) Three (3) years has elapsed since the time of the application for a building permit.

(4) Whenever an adequate school facility fee is charged, it shall be offset by the full amount of the school facilities surcharge imposed on the same property.]

[(c)] (e) Notwithstanding the above requirements, building permits may be approved [without the payment of an adequate school facilities fee] for the following:

(1) A subdivision which is a redevelopment project that replaces existing dwelling units;

(2) A subdivision for less than thirty-six (36) dwelling units which will be developed in a Revitalization Tax District as provided in Subtitle 10 of this Code where the proposed subdivision is not included in a larger Comprehensive Design or Mixed Use Zone development; or

[(3) A subdivision for less than thirty-six (36) dwelling units, which will not be served by public water and sewerage systems, is not included in a larger Comprehensive Design or Mixed Use Zone development, and for which the applicant/owner, or their predecessors in interest and/or title, did not own any property adjacent to the proposed subdivision as of May 31, 1997. For purposes of this Section, land is considered adjacent if the property lines are contiguous at any point; are separated only by a public or private street, road, highway, utility right-of-way, or other public or private rights-of-way at any point; or are separated only by other land of the applicant/owner or their predecessors in interest and/or title which is not subject to this Section at the time the applicant submits a preliminary plat of subdivision for approval.]

[(4)] (3) A subdivision for elderly housing operated in accordance with State and Federal Fair Housing law.

(5) A subdivision containing no more than three (3) lots on less than five (5) gross acres of land and for which the lots, except for one to be retained by grantor, are to be conveyed to a son or daughter or lineal descendant of the grantor

SECTION 2. BE IT FURTHER ENACTED that this Act shall take effect thirty (30) calendar days after it becomes law.

Adopted this _____ day of _____, 2001.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Ronald V. Russell
Chairman

ATTEST:

Joyce T. Sweeney
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Wayne K. Curry
County Executive

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.