

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**  
**2003 Legislative Session**

Bill No. CB-72-2003

Chapter No. \_\_\_\_\_

Proposed and Presented by Council Member Dernoga

Introduced by \_\_\_\_\_

Co-Sponsors \_\_\_\_\_

Date of Introduction \_\_\_\_\_

**SUBDIVISION BILL**

1 AN ACT concerning

2 Subdivisions – Adequate Public Road Facilities

3 For the purpose of deleting certain provisions of the Subdivision Ordinance that allow the  
4 development of certain property notwithstanding the inadequacy of public road facilities.

5 BY repealing and reenacting with amendments:

6 SUBTITLE 24. SUBDIVISIONS.

7 Section 24-124

8 The Prince George's County Code

9 (1999 Edition, 2002 Supplement).

10 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,  
11 Maryland, that Section 24-124 of the Prince George's County Code be and the same is hereby  
12 repealed and reenacted with the following amendments:

13 **SUBTITLE 24. SUBDIVISIONS.**

14 **DIVISION 4. TRANSPORTATION AND CIRCULATION.**

15 **Sec. 24-124. Adequate roads required.**

16 (a) Before any preliminary plat may be approved, the Planning Board shall find that:

17 (1) There will be adequate access roads available to serve traffic which would be  
18 generated by the proposed subdivision, or there is a proposal for such roads on an adopted and  
19 approved master plan and construction scheduled with one hundred percent (100%) of the  
20 construction funds allocated within the adopted County Capital Improvement Program and/or  
21 within the current State Consolidated Transportation Program; and

1           (2) The traffic generated by the proposed subdivision will be accommodated on  
 2 major intersections and major roadways within the established study area such that they will be  
 3 functioning below the minimum peak-hour service levels adopted by the Planning Board in the  
 4 "Guidelines for the Analysis of the Traffic Impact of Development Proposals," as may be  
 5 amended from time to time (hereinafter the "study area" refers to major intersections and major  
 6 roadways as defined in the "Guidelines"); or

7           (3) Roadway improvements or trip reduction programs fully funded by the subdivider  
 8 or his heirs, successors, and assigns will alleviate the inadequacy as defined in the "Guidelines;"  
 9 or

10           (4) Roadway improvements fully funded by the subdivider and the County and/or the  
 11 State government which will alleviate any inadequacy as defined in the "Guidelines," and which  
 12 will provide surplus capacity, may be eligible for the establishment of a Surplus Capacity  
 13 Reimbursement Procedure, as defined in the "Guidelines," provided:

14           (A) The transportation facility improvements are identified in the Adopted  
 15 County Capital Improvement Program or current State Consolidated Transportation Program,  
 16 with an amount greater than zero percent (0%) but less than one hundred percent (100%) of the  
 17 total cost to complete the improvements; and

18           (B) The total cost estimates to complete the improvements have been approved  
 19 by the Planning Board upon acceptance by the appropriate public agency; and

20           (C) The necessary permits for construction of the transportation facility  
 21 improvements have been issued by the appropriate public agency; and

22           (D) The subdivider agrees to fund the difference between the total cost to  
 23 complete the improvements and the amount allocated for the improvements by the County or  
 24 State government in the Adopted CIP or current CTP; or

25           (5) Roadway improvements participated in by the subdivider will alleviate any  
 26 inadequacy as defined by the "Guidelines." Such participation shall be limited to improvements  
 27 defined in paragraph (4), above, and with sufficient surplus capacity to adequately accommodate  
 28 the subdivider's proposed traffic impact. The amount and timing of the subdivider's participation  
 29 shall be determined by the Planning Board as defined in the "Guidelines;" or

30           (6) Within the Developed Tier only and along the MD Route 4 corridor from the  
 31 District of Columbia border to the intersection with MD Route 223, [C]consideration of certain

1 mitigating actions is appropriate as defined in the approved "Guidelines for Mitigation Actions,"  
2 and as provided below:

3 (A) Projected traffic service in the study area, which shall be based on existing  
4 traffic, traffic generated by other approved development, and growth in through traffic as defined  
5 in the "Guidelines," is calculated to be greater than the acceptable level of service; and

6 (B) The provisions for adequate roads, as described in Subparagraph (a)(1),  
7 above, are not met.

8 (i) Where projected traffic service is calculated to be greater than or equal  
9 to twenty-five percent (25%) above, the acceptable peak-hour service level threshold as defined  
10 in the "Guidelines," the Planning Board may require that any physical improvement or trip  
11 reduction programs participated in, or funded by, the subdivider or his heirs, successors, and  
12 assigns shall fully abate the impact of all traffic generated by the proposed subdivision in the  
13 study area. Following the development of the proposed subdivision and implementation of the  
14 approved mitigation action, the total traffic service will be reduced to no higher than twenty-five  
15 percent (25%) above the acceptable peak-hour service level threshold as defined in the  
16 "Guidelines" (total traffic service shall be based on projected traffic and traffic generated by the  
17 proposed development); or

18 (ii) Where projected traffic service is calculated to be greater than but less  
19 than twenty-five percent (25%) above the acceptable peak-hour service level threshold as defined  
20 in the "Guidelines," the Planning Board may require that any physical improvements or trip  
21 reduction programs fully funded by the subdivider or his heirs, successors, and assigns shall fully  
22 abate the impact of one hundred and fifty percent (150%) of all traffic generated by the proposed  
23 subdivision in the study area. Following the development of the proposed subdivision and  
24 implementation of the mitigation action, the total traffic service within the study area will be  
25 reduced to no lower than the acceptable peak-hour service level threshold defined in the  
26 "Guidelines"; or

27 (C) Where existing traffic service in the service area is at the acceptable  
28 peak-hour service level threshold or better, as defined in the "Guidelines," and if the total traffic  
29 service in the study area is no greater than ten percent (10%) above the acceptable peak-hour  
30 service level threshold as defined in the "Guidelines" and the proposed subdivision generates less  
31 than twenty-five (25) A.M. or P.M. peak-hour trips, the Planning Board may require that the

1 subdivider or his heirs, successors, and assigns shall be responsible for the pro rata cost of the  
2 physical improvements necessary to alleviate the inadequacy as defined in the "Guidelines."

3 (D) Planning Board action on a mitigation action may be appealed to the District  
4 Council by the applicant or by any party of record. The appeal shall be filed with the Clerk of  
5 the Council within thirty (30) days following notice of action on the mitigation proposal by the  
6 Planning Board to all parties of record. The Planning Board shall give notice of its action by  
7 sending a copy to each party of record by first-class mail, postage prepaid. The appeal shall be  
8 based upon the record as made before the Planning Board and shall set forth the reasons for the  
9 appeal. In deciding an appeal of a mitigation action, the Council shall exercise original  
10 jurisdiction. For any such appeal, the Council may, based on the record, approve, approve with  
11 conditions, remand, or deny the mitigation action; or

12 (7) There is a proposal for such roads on a plan being considered by the United States  
13 Department of Transportation and/or Federal Highway Administration, and which is funded for  
14 construction within the next ten years. The Planning Board may condition the approval of the  
15 subdivision on a construction schedule that minimizes any inadequacy.

16 (b) The Surplus Capacity Reimbursement Procedure shall be adopted by the Planning  
17 Board by resolution, at a regularly scheduled public meeting. Any transportation facility  
18 improvements that qualify for a Surplus Capacity Reimbursement Procedure are eligible for pro  
19 rata share contributions from all subsequent subdividers which the Planning Board determines  
20 will need the available surplus capacity to meet the requirements of this Section. The pro rata  
21 share contributions shall be indexed to account for changes in the estimated cost to complete the  
22 roadway improvements, using a cost index acceptable to the appropriate public agency. Within  
23 fifteen (15) calendar days after adoption of a Surplus Capacity Reimbursement Procedure, the  
24 Planning Board or its designee shall transmit to the County its adopted resolution and findings as  
25 to the portion of the total Surplus Capacity Reimbursement improvements cost which qualifies  
26 for prorated share contributions. Copies of the Planning Board resolution and the minutes of the  
27 Planning Board hearing shall be available for public inspection. Once the Planning Board  
28 determines that surplus capacity created by the Surplus Capacity Reimbursement improvements  
29 does not exist, the improvements no longer qualify for pro rata share contributions from  
30 subsequent subdividers. The Planning Board shall then transmit to the County a resolution  
31 closing the Surplus Capacity Reimbursement.

32

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

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2003.

COUNTY COUNCIL OF PRINCE  
GEORGE'S COUNTY, MARYLAND

BY: \_\_\_\_\_  
Peter A. Shapiro  
Chairman

ATTEST:

\_\_\_\_\_  
Redis C. Floyd  
Clerk of the Council

APPROVED:

DATE: \_\_\_\_\_ BY: \_\_\_\_\_  
Jack B. Johnson  
County Executive

KEY:  
Underscoring indicates language added to existing law.  
[Brackets] indicate language deleted from existing law.  
Asterisks \*\*\* indicate intervening existing Code provisions that remain unchanged.