

**PRINCE GEORGE'S COUNTY COUNCIL
AGENDA ITEM SUMMARY**

Meeting Date: 7/2/96

Reference No.: CB-36-1996

Proposer: Russell

Draft No.: 1

Sponsors: Russell, Del Giudice

Item Title: An Ordinance to abolish the adequate public facilities test for schools in certain zones to coincide with the imposition of a school facilities surcharge

Drafter: Mary Lane
PZ&ED Committee Director

Resource Personnel:

LEGISLATIVE HISTORY:

Date Presented: __/__/__

Executive Action: __/__/__ __

Committee Referral:(1) 5/29/96 PZED

Effective Date: __/__/__

Committee Action:(1) 6/19/96 FAV

Date Introduced: 5/29/96

Pub. Hearing Date: (1) 7/2/96 1:30 P.M.

Council Action: (1) 7/2/96 Postponed Indefinitely

Council Votes: SD:N, DB:A, JE:A, IG:A, AMc:-, WM:A, RVR:A, AS:A, MW:A

Pass/Fail: P

Remarks: (See Also CR-28-1996 and CB-54-1996)

PLANNING, ZONING & ECONOMIC DEV. COM. REPORT

DATE: 6/19/96

Committee Vote: Favorable, 3-1 (In favor: Council Members Wilson, MacKinnon and Russell.
Opposed: Council Member Maloney).

This legislation abolishes the APF test for schools in the zones where it exists, which are the Comprehensive Design and Mixed Use Community Zones. It is necessary in order to impose the school facilities surcharge, which was adopted by the Council last year and will be implemented on all new residential permits on July 1, with the exception of those which are grandfathered. State law prohibits the County from imposing the surcharge and conducting an APF test for schools.

The Planning Board supports this legislation, and the Legislative Officer and the Office of Law find it to be in proper legislative form. The Prince George's County Educator's Association supports the legislation, and Board of Education supports it, provided an amendment is made to the companion bill, CB-54-1996. This legislation was considered separately by the Committee. Bob Zinsmeister, representing the Chamber of Commerce, spoke in support of the legislation, citing the findings of The Adequate Public School Facility Guidelines Task Force in 1994. Hamer Campbell, representing the Suburban Maryland Building Industry Association, spoke in support of the legislation, and noted the persistent concerns regarding the effectiveness of an APF test as long as the County is under the court order regarding desegregation. Jon Robinson, representing the Sierra Club, testified in opposition to the bill, preferring a stronger APF test instead. It was requested that the County Executive provide his position on this legislation prior to the July 2 public hearing.

The Committee discussed the merits of the APF test compared to the surcharge. Planning staff reported that there have been eleven Comprehensive Design Plans where school inadequacy has been found, and a developer contribution of \$4,000 per seat has been imposed. The total amount of these developer contributions is \$5.6 million, and \$188,000 has been paid to date. Of the eleven projects, seven projects had approved preliminary plats of subdivision prior to October 1, 1995, and are therefore not subject to the surcharge. These projects will, however, be subject to the developer contribution, since this was a condition of their approvals. There was a question regarding the legality of these conditions in light of the language in HB 460 regarding the imposition of both a surcharge and an APF test. This language reads "Payment of the School Facilities Surcharge shall eliminate the application of any test concerning the adequacy of school facilities under the County's Adequate Public Facilities Ordinance". Joyce Nichols responded that this language is not applicable to the seven projects noted above, since they are not subject to payment of the surcharge. A written legal opinion regarding this issue was requested prior to the public hearing on July 2. Douglas Brown, Director of the Office of Management and Budget, reported that an analysis conducted by his office indicates that the County will collect approximately \$5 million per year in FY99, which is the first year all new residential permits will be subject to the charge. There may be a small increase in revenues in FY97 and FY98 as a result of imposition of the surcharge. Mr. Brown also reported that if the funds are leveraged and used to pay debt service, the surcharge revenue would support a one-time bond sale of approximately \$56 million. Assuming the current State funding formula, this equates to 7 to 8 elementary schools, 4 to 5 middle schools, and 2 high schools, or some combination of the above. Following a lengthy discussion, the Committee reported the legislation out without amendments.

BACKGROUND INFORMATION/FISCAL IMPACT

(Includes reason for proposal, as well as any unique statutory requirements)

During the 1995 legislative session, the General Assembly adopted legislation (HB 460) authorizing Prince George's County to impose a school facilities surcharge on new residential construction. The legislation expressly stated that the payment of this surcharge eliminates the application of any adequate public facilities test for schools. Legislation was enacted by the Council in 1995 (CB-83-1995) establishing the surcharge, which would be imposed on all residential building permits applied

for after July 1, 1996. This companion legislation eliminates the APF test for schools in the Zoning Ordinance, as directed by State law, if the surcharge is to be imposed.

CODE INDEX TOPICS: