

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

Resolution No. CR-23-2001

Proposed by Chairman Ronald V. Russell

Introduced by Council Member Russell

Co-Sponsors _____

Date of Introduction June 12, 2001

RESOLUTION

1 A RESOLUTION concerning
2 Amended Adequate Public Facilities Regulations for Schools
3 For the purpose of approving the amended regulations for adequate public facilities for schools.

4 WHEREAS, the County Council has adopted legislation to amend the test for adequate
5 school facilities; and

6 WHEREAS, the purpose of the new test is to provide a more simplified and equitable
7 testing process for new development at the time of preliminary plan of subdivision; and

8 WHEREAS, the current "Regulations to Analyze the Development Impact on Public School
9 Facilities" regulations, as adopted in CR-4-1998 pursuant to the direction of the County Council
10 in CB-3-1997 (DR-6) and CB-15-1999 (DR-4) must be amended to reflect the changes to the test
11 for adequate school facilities; and

12 WHEREAS, the amended regulations will describe the proposed new adequate school
13 facilities tests, applicable criteria, and other related requirements, as well as the process for
14 proffering and negotiating a school facilities agreement; and

15 WHEREAS, the title of the proposed new regulations will be the "Adequate Public
16 Facilities Regulations for Schools,"

17 NOW, THEREFORE, BE IT RESOLVED by the County Council of Prince George's
18 County, Maryland, that the amended regulations, now titled the "Adequate Public Facilities
19 Regulations for Schools," attached hereto and incorporated by reference, are hereby approved.

Adopted this 19th day of November, 2001.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Ronald V. Russell
Chairman

ATTEST:

Joyce T. Sweeney
Clerk of the Council

ADEQUATE PUBLIC FACILITIES REGULATIONS FOR SCHOOLS

1. Introduction

The County Council has adopted the following Regulations, the "Adequate Public Facilities Regulations for Schools," effective on January 14, 2002. The Regulations are to be used by the County and Planning Commission staff and by the public to determine, for subdivision review and permit issuance purposes, the impact of new residential development on the public school system in Prince George's County. The Regulations show how information on school facilities impacts will be gathered and presented to the Planning Board. Terms and test procedures used in the Regulations are defined below.

2. Definitions:

Actual Enrollment - The number of elementary (excluding pre-Kindergarten students), middle, and high school students as reported by the Superintendent of Prince George's County Public Schools as of September 30 of the prior year, as calculated by the Planning Board and effective in January of each year for use in that calendar year.

APF - Adequate Public Facilities

BOE - Board of Education

Cluster Enrollment - The sum of the Actual Enrollment, Completion Enrollment, Cumulative Enrollment, and Subdivision Enrollment.

Completion Enrollment - The total number of elementary, middle, and high school students that are anticipated using the estimated number of residential completions for the next two years in any given School Cluster. Residential completions are estimated from the total of all substantially completed dwelling units added to the county's assessable tax base in the two previous calendar years.

Cumulative Enrollment - The total of all Subdivision Enrollments resulting from approved preliminary plans of subdivision in each School Cluster for each calendar year in which an adequate public facilities test is being applied.

Developed Tier - An area that is established in the County's adopted Biennial Growth Policy Plan.

Development of Significant Impact - A preliminary plan or plans of subdivision of six hundred (600) dwelling units or more.

Funded School(s) – A new elementary, middle or high school, or an addition to an existing school in a school cluster in which a subdivision is tested and for which county construction funds are shown in the first two years of the county=s adopted and effective Capital Improvement Program (CIP).

Percent Capacity- The Cluster Enrollment divided by the State Rated Capacity of all schools in that School Cluster.

PGCPS - Prince George=s County Public Schools

Preliminary plan of Subdivision Approval - The date of adoption of the resolution of approval by the Planning Board.

Pupil Yield Factor - The estimated number of elementary, middle, and high school students per dwelling unit, as determined by the Planning Board, from information provided by the Superintendent of the Prince George=s County Public Schools.

School Cluster - Groupings of elementary, middle, and high schools which would be impacted by the subdivision.

School Facilities Agreement - A formal, executed agreement between County Executive and County Council and an applicant or applicants for a preliminary plan or plans of subdivision . The agreement includes a commitment to construct or to secure funding for all or part of a school in a schedule of fee payments to advance capacity. Such agreement is negotiated by the County Executive and approved by the County Council at a regularly scheduled meeting.

Staff - The staff of the Prince George=s County Planning Department.

State Rated Capacity (SRC) - The maximum number of students that can be reasonably accommodated in a facility without significantly hampering delivery of the educational program. The Planning Board shall establish the capacity for each school based on information provided by the State's Public School Construction Program. Pre-K classrooms (that have been classified by the state as pre-K classrooms) are not included at individual schools for the purposes of this definition.¹ Temporary classrooms are not included in this definition.

Subdivision Enrollment - The anticipated number of elementary, middle and high school students to be generated by all dwelling units shown on a proposed preliminary plan of subdivision, multiplied by the pupil yield factor.

Subdivision - Preliminary plan of Subdivision

¹ The state defines capacity for pre-K at 20 students per classroom. The SRC for individual schools with pre-K rooms is adjusted by subtracting the total capacity of all state classified pre-K rooms from the total school=s SRC. The State also uses the following capacity formula for elementary schools: kindergarten – 22 students per classroom; grades 1 through 5 – 25 students per classroom; Special Education – 10 students per classroom. The State uses the following formula for middle and high schools: the number of teaching stations times 25 multiplied by 85%.

3. Updating the Information:

On June 14, 2002, staff will make available information on Funded Schools in the school clusters. The County Council will review and adopt the information on Funded Schools, which will become effective on July 1, 2002. On November 1 of each calendar year, staff will present figures for the Actual Enrollment, Completion Enrollment, and State Rated Capacity (as adjusted by these Regulations). The County Council will review and adopt these figures which will be published, to be effective January 1 of the following year. (This schedule may be changed in an election year.) In each June thereafter, staff will make available information on Funded Schools in the school clusters which will be reviewed and adopted by the Council, to be effective on July 1.

4. School Clusters:

At the time of preliminary plan of subdivision, the Planning Board will apply an adequacy of school facilities test in accordance with Section 24-122.02 of the Subdivision Regulations. School Clusters are based on Planning Area boundaries, which are established by the Zoning Ordinance. School Cluster boundaries are established by the County Council for purpose of administering the adequate public facilities test.

5. Adequate Public Facilities Criteria

The schools adequate public facilities test is based on the Percent Capacity. If the Percent Capacity is greater than one hundred five percent (105%), the proposed subdivision is subject to a three (3) year wait, if there is a Funded School within the School Cluster, or a six (6) year wait, if there is no Funded School within the School Cluster. Pre-kindergarten students are not included in the determination of Percent Capacity.

6. Test procedures:

A. The Planning Board determines the School Cluster(s) that are impacted by the subdivision.

B. Subdivision Enrollment - The Planning Board determines the anticipated number of students that would result from all dwelling units shown on a proposed preliminary plan of subdivision. The Subdivision Enrollment is the number of dwelling units multiplied by the following Pupil Yield Factors:

0.24 elementary school students per dwelling
 0.06 middle school students per dwelling
 0.12 high school students per dwelling

C. Pupil Yield Factors are determined by the Planning Board from information provided by the Superintendent of the Prince George=s County Public Schools. The Planning Board will use the above factors as part of the adequacy test, pursuant to the Regulations.

D. The Planning Board then determines the Cumulative Enrollment.

E. The Subdivision Enrollment is added to the Actual Enrollment, the Completion Enrollment,² and the Cumulative Enrollment to determine the Cluster Enrollment. To estimate the completions the Planning Department uses a digital file from the Maryland State Department of Assessments and Taxation (SDAT) entitled "New Additions." The term "completions" is the term used to represent new additions to the county's housing stock. Each quarter, the SDAT releases a listing of new residential additions, which is received by the Planning Department. Pertinent information about the type, character, value and location of each completion is extracted by the Planning Department and reformatted into a tabular report. Staff reviews each completion record for proper geographic identifier and structure classification.

The estimated number of residential completions in any given School Cluster will not exceed the total number of dwelling units shown on: (1) approved preliminary plans of subdivision with no waiting period or with a waiting period of less than 24 months as of September 30th of each calendar year; and (2) all recorded plats that are not subject to an adequate public facilities test for schools at the time of building permit issuance, in any given School Cluster. The Planning Department shall publish the information on November 1 of each calendar year and it will become effective on January 1.

It is important to note that the Cumulative Enrollment, i.e., the total of all Subdivision Enrollments from preliminary plans of subdivision, is accumulated within each calendar year as subdivisions are approved. For example, if Preliminary plan #1 was approved in January and its Subdivision Enrollment was twenty (20) students, those students would be added to the Cluster Enrollment. When Preliminary plan #2 is evaluated, the staff would add the Subdivision Enrollment from Preliminary plan #2, the Actual Enrollment, the Completion Enrollment, and the Cumulative Enrollment (twenty (20) students from Preliminary plan #1). The Subdivision Enrollments of all approved preliminary plans of subdivision that are accumulated in one calendar year do not carry over to the next calendar year. Thus, the Cumulative Enrollment on January 1 of each calendar year is zero.

F. The Cluster Enrollment is then divided by the SRC for the School Cluster to determine the Percent Capacity. If the Percent Capacity is less than or equal to one hundred five percent (105%), then the Planning Board will find that adequate school facilities exist to serve the development.

G. If the Percent Capacity is greater than one hundred five percent (105%), then the Planning Board will determine if there is a Funded School within the School Cluster. If there is a Funded School, the proposed subdivision is subject to a three-year wait. If there is no Funded School within the School Cluster, the proposed subdivision is subject to a six-year wait. The preliminary plan may then be approved, and building permits may

² For the initial Regulations, effective on January 14, 2002, the data for approved preliminary plans is as of November 8, 2001 and the date for recorded lots is as of July 1, 2001. Henceforth, beginning on November 1, 2002, the Planning Department shall publish information in accordance with Section 5.E.

be issued:

1. Depending on the Planning Board's determination of funded school, three (3) or six (6) years after the date of approval of the preliminary plan of subdivision;
2. At any time that the Percent Capacity, as adjusted pursuant to the School Regulations, is less than or equal to one hundred five percent (105%) in all clusters; or
3. Pursuant to the terms of an executed school facilities agreement whereby the subdivision applicant, to avoid a waiting period, agrees with County government to construct or secure funding for construction of all or part of a school to advance capacity. See School Facilities Agreement.

H. Staging of a Preliminary plan of Subdivision- Section 24-122.02(a)(2) of the Subdivision Regulations provides that a preliminary plan of subdivision may be developed in stages. Under the provisions of the law, each stage of a subdivision may go forward without the imposition of a waiting period provided that the number of students generated at each stage of the subdivision will not exceed a Percent Capacity of one hundred five percent (105%) in the School Cluster. This provision applies only to those School Clusters where the Percent Capacity is less than or equal to one hundred five percent (105%). For example, Stage I of a preliminary plan can proceed to building permit because the Percent Capacity is less than or equal to one hundred five percent (105%). When Stage I is approved, its Subdivision Enrollment is added to the Cumulative Enrollment. Stage II of the preliminary plan will cause the Percent Capacity (which includes the Cumulative Enrollment from Stage I) to exceed the 105 percent threshold; therefore, Stage II of this development is subject in a three- (3) or six- (6) year waiting period, whichever is applicable.

I. Subdivisions waiting for permit approvals in December 2001 – Legislation amending Section 24-122.02 allows subdivisions with permit waiting periods to receive permits in the order of their approval. Subdivisions approved and in waiting periods before the legislation's effective date are eligible to receive permits before those approved after the effective date. If a particular cluster (elementary, middle, and high schools combined) has capacity below 105%, then any subdivisions in waiting status in December 2001 will be eligible for permits before subdivisions tested later, under the amendments to Section 24-122.02.

7. School Facilities Agreement:

In accordance with Subtitle 24, Section 24-122.02 of the Subdivision Regulations, an applicant may offer to construct or to secure funding for all or part of a school to alleviate any inadequacy. A formal, written agreement between the County Executive and County Council and the applicant shall be executed. An applicant with a subdivision which is not a Development of Significant Impact, as described in Section 24-122.02, may enter into a school facilities

agreement to pay a specific amount of fees, comprising the school facilities surcharge and a per-dwelling unit fee. See appendix for sample form and fee schedule. The fees per dwelling unit are as follows: \$2,150 for an elementary school; \$840 for a middle school; and \$1,950 for a high school. If an applicant for a subdivision which is not a Development of Significant Impact does not agree to pay the fees provided for above, then he or she may, after negotiation and County Executive and County Council approval, pay for or provide for facilities which are substantially equivalent in value to the fees which would otherwise be paid. The fees per dwelling unit, stated above, may be paid in phases for multifamily residential dwellings with more than 20 units. The phased payments shall be: 25% on issuance of first building permit, and the remainder 24 months later. An applicant with a subdivision which is a Development of Significant Impact, as described in Section 24-122.02, may enter into a school facilities agreement with the County Executive and County Council to construct or secure funding for construction of all or part of a school, to advance capacity. Applicants are encouraged to propose agreements prior to the application for the preliminary plan of subdivision. Applicants should contact the County Executive's Office for more information.

The Planning Board shall accept, for the purposes of adequate school facilities, an executed School Facilities Agreement which includes a commitment to construct all or part of a school, or to secure funding for all or part of a school, in a schedule of payments. A School Facilities Agreement executed by the applicant and the County Executive and the County Council may provide for funding or construction of all or part of a school, construction and sale or lease of a school to County government, or any substantially equivalent agreement.

8. Wait Period:

An applicant with an approved subdivision in a three- or six-year wait period may not apply for building permits until the wait period expires, an executed development agreement allows permit applications, or the Percent Capacity (for all clusters in which the subdivision falls) is below 105%. If during a six-year wait period a school becomes funded in a school cluster in which a subdivision was tested, then the period may be reduced to three years.

Applicants in the same cluster, for whom the same actual and completion enrollment figures apply, may be placed in a wait period together, starting at their respective approval dates. If during the wait period the Percent Capacity drops below 105%, these applicants will be released in order of subdivision approval. In no case will a subdivision be released for permits ahead of one approved earlier. If only a stage of a subdivision may be released before reaching 105% Percent Capacity, that stage and all later stages of that subdivision will be released before any stage of any later-approved subdivision.

If during a wait period an applicant wishes to have a development agreement approved, the applicant may file a request with the Office of the County Executive.

9. Exemptions:

The following shall be exempt from the preliminary plan of subdivision test in Section 124.02(a):

- (1) A subdivision which is a redevelopment project that replaces existing dwelling units;
- (2) A subdivision for elderly housing operated in accordance with State and Federal Fair Housing law.
- (3) 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.
- (4) A subdivision which is located in communities determined by the Planning Board to be a part of the County=s Developed Tier, as defined and described in the County=s Biennial Growth Policy Plan, which is incorporated by reference.
- (5) A subdivision for fewer than thirty-six (36) dwelling units, which will not be served by public water and sewerage systems, is not included in a large Comprehensive Design or Mixed-Use Zone development, and for which the applicant/owner, or 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:
 - (A) A subdivision means all land originally included in one preliminary plan application. Subsequent re-subdivision for the purpose of creating additional lots is permitted, provided that in no case shall an exemption be applied to more than a total of thirty-five (35) lots; and
 - (B) Land is considered adjacent if the property lines:
 - (i) Are contiguous at any point;
 - (ii) Are separated only by a public or private street, road, highway, utility right-of-way, or other public or private right-of-way at any point; or
 - (iii) 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 plan of subdivision for approval.

10. Effect of Prior Approvals

Upon the effective date of this Act, the preliminary plans of subdivision that had been approved under the previous adequate public facilities for schools test and subject to a four (4) year wait condition affecting the issuance of building permits, will be affected, upon application of the test described in this Act, as described below:

(1) If application of the test in the elementary, middle, and high school clusters that are impacted by the project does not establish a wait period, then any remaining wait period from a previous approval shall terminate;

(2) If application of the test in the elementary, middle, and high school clusters that are impacted by the project establishes a three (3) year wait period, then either a new three (3) year wait period or the remaining wait period from the previous approval shall apply, whichever time frame is less;

(3) If application of the test in the elementary, middle, and high school clusters that are impacted by the project establishes a six (6) year wait period, then the remaining wait period from the previous preliminary plan approval shall remain in effect; or

(4) An applicant may, in lieu of any remaining wait period, enter into a school facilities agreement, as described in Section 1. Building permits may be issued pursuant to the executed school facilities agreement.