

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL
2023 Legislative Session

Resolution No. CR-083-2023

Proposed by Council Members Dernoga, Ivey, Olson and Hawkins

Introduced by Council Members Dernoga, Ivey, Olson, Hawkins and Burroughs

Co-Sponsors _____

Date of Introduction September 26, 2023

RESOLUTION

1 A RESOLUTION concerning

2 Residential Building Permit Allocation Program

3 For the purpose of approving, as an Act of the County Council of Prince George’s County,
4 Maryland, sitting as the District Council for that part of the Maryland-Washington Regional
5 District in Prince George’s County, an annual residential permit allocation process.

6 WHEREAS, the County Council is authorized by Title 23, Land Use Article, Annotated
7 Code of Maryland, to adopt subdivision regulations and respective amendments regulating the
8 subdivision of land within the portion of the Maryland-Washington Regional District (“Regional
9 District”) in Prince George’s County; and

10 WHEREAS, Title 23 also authorizes the Council to adopt provisions for the: (i) harmonious
11 development of the Regional District; (ii) coordination of roads within subdivisions; (iii)
12 adequate open spaces for transportation, the dedication to public use or conveyance of areas
13 designated for dedication under the subdivision regulations; (iv) reservation of land for roads; (v)
14 conservation or production of adequate public transportation; (vi) avoidance of undue population
15 congestion; and (vii) avoidance of scattered or premature subdivision that may result in danger or
16 injury to health, safety, and welfare due to the lack of transportation; and

17 WHEREAS, Section 23-106 of the Land Use Article confers upon the Council specific
18 authority to impose standards and requirements for the purpose of avoiding scattered or
19 premature subdivision or development of land because of the inadequacy of transportation; and

1 WHEREAS, Section 24-4504(c) of the Subdivision Ordinance authorizes the Council, by
2 Resolution, to establish a building permit limit and a system of allocating building permits over
3 a period of time; and WHEREAS, the current County general development plan, *Plan Prince*
4 *George's 2035* ("Plan 2035"), includes a Growth Management Policy, Growth Management
5 Goals, and a Growth Policy Map; and

6 WHEREAS, the Council approved specific direction for land use and development policy
7 within Plan 2035 that: (i) directs a majority of projected new residential and employment growth
8 to the Regional Transit Districts; (ii) seeks to direct a further Twenty-Five Percent (25%) of all
9 new dwellings within Local Centers as defined in the Plan 2035 Center Classification System;
10 (iii) contains a policy to phase new residential development to coincide with the provision of
11 public facilities and services; (iv) seeks to ensure that countywide transportation improvements
12 are integrated with and support the Plan 2035 vision and land use pattern; (v) seeks to expand
13 and improve transit service, particularly on routes connecting Downtowns, the Innovation
14 Corridor, and Regional Transit Districts in order to maximize the economic development
15 potential and synergies between these areas; (vi) seeks to maintain levels of service standards for
16 roads and highways as identified by Plan 2035; and (vii) seeks to improve overall safety levels
17 within the County's transportation network; and

18 WHEREAS, in 2019 the Metropolitan Washington Council of Governments set a regional
19 target that at least 75% of all new housing should be in Activity Centers or near high-capacity
20 transit; and

21 WHEREAS, in its 2023 review of Plan 2035 growth policies, the Maryland-National
22 Capital Park and Planning Commission reported to the District Council that less than half of all
23 growth since 2014 has been in Regional Transit Districts and Local Centers, and that most of the
24 growth in Established Communities has been outside I-95/I-495; and

25 WHEREAS, the County's current functional master plan for transportation, the 2009
26 *Countywide Master Plan of Transportation*, enunciates the overarching goal of improving the
27 County's transportation network and providing multimodal transportation guidance to support
28 the growth and development envisioned with the land use patterns set forth in the County
29 General Plan, including subsequent major changes; and

30 WHEREAS, the 2009 *Countywide Master Plan of Transportation* also declared a
31 transportation policy to manage capacity and minimize congestion of the streets, roads, and

1 highways network, reduce vehicle miles traveled, improve the transportation network, enhance
2 transportation infrastructure, and make transit and nonmotorized modes more convenient where
3 appropriate; and

4 WHEREAS, the County has also approved policy aimed to achieve the County’s climate
5 resilience goals, the adopted 2023 Climate Action plan, which recommends that the County must
6 concentrate infrastructure, housing, jobs, and services to our designated Activity Centers—
7 mixed-use, transit-accessible locations that reduce vehicle miles traveled and bring the wealth of
8 benefits that smart growth promises; and

9 WHEREAS, the County’s Subdivision Regulations ensure that infrastructure necessary to
10 support proposed development is built at the same time as, or prior to, that proposed
11 development; establish level of service (“LOS”) standards for transportation adequacy that
12 provide clear guidance to the County and applicants about when facilities are considered
13 adequate, and create guidance for future infrastructure investments needed to accommodate
14 existing residents and anticipated growth; establish LOS standards that reflect policy guidance of
15 the General Plan, applicable Area Master Plans or Sector Plans, and the applicable Functional
16 Master Plan for each facility; establish LOS standards that encourage development in the transit-
17 oriented/activity center zones; and re-evaluate approved development that has received adequate
18 public facilities approvals prior to April 1, 2022, for projects that have not been built in a timely
19 manner; and

20 WHEREAS, the Prince George’s County Transportation Review Guidelines define Level of
21 Service (“LOS”) as a qualitative measure that uses a sequence of letters from A through F to
22 describe the quality of operational conditions within an intersection or a roadway link and;

23 WHEREAS, the LOS standards used in the Transportation Review Guidelines are based on
24 the 2022 Zoning Ordinance and Subdivision Regulations, Plan 2035, and any successor
25 documents; and

26 WHEREAS, per the Master Plan of Transportation, roadways operating at a LOS D are
27 described as approaching unstable flow, and the influence of congestion becomes more
28 noticeable; roadways operating at LOS E are described by long delays that indicate poor
29 progression, with frequent occurrences of signal cycle failures; LOS F is considered to be
30 unstable and unacceptable to most drivers, with oversaturation of vehicles, long signal cycle
31 lengths, high levels of delays, and frequent signal cycle failures; and

1 WHEREAS, the Maryland-National Capital Park and Planning Commission has evaluated
2 the LOS for all roads within Prince George’s County as depicted in the following Attachments,
3 which are attached hereto and incorporated as if recited fully herein: Attachment A (designated
4 Plan 2035 Transportation Service Areas); Attachment B (roadways in Prince George’s County
5 operating as LOS D at AM and/or PM peak hours); and Attachment C (roadways operating at
6 LOS E and F at AM and/or PM peak hours); and

7 WHEREAS, the Climate Action Plan's implementation steps require the County Council
8 and the Maryland-National Capital Park and Planning Commission, consistent with Plan 2035,
9 the Climate Action Plan, the Green Infrastructure Plan, and previous growth plans, to identify
10 and adopt policies and ordinances that phase new residential development to coincide with the
11 provision of public facilities and services; and

12 WHEREAS, the Climate Action Plan requires the Maryland-National Capital Park and
13 Planning Commission and the County Council to address the residential pipeline in rural areas
14 and established communities outside of the Beltway to curtail suburban sprawl, including: (i)
15 cease extending validity periods and adopting shorter validity periods for suburban development
16 projects; (ii) revising subdivision regulations to require older projects to be reevaluated to ensure
17 that public infrastructure will be reconsidered and updated to ensure that public infrastructure is
18 adequate and designs comply with revised County Code; and (iii) requiring the County Council,
19 in coordination with the Maryland-National Capital Park and Planning Commission, to
20 implement a residential building permit allocation program as soon as feasible to better phase the
21 suburban residential pipeline to steer development to Activity Centers with emphasis on areas
22 near high-capacity transit; and

23 WHEREAS, the Climate Action Plan requires that mixed-use land use and medium-to-high
24 density residential development is to be limited outside of the Regional Transit Districts and
25 Local Centers served by Metrorail or the Purple Line; and

26 WHEREAS, the Climate Action Plan requires that revisions to the new Zoning Ordinance
27 should incorporate: (i) different policies supporting medium-to-high density residential
28 development in Activity Centers as opposed to suburban development in Rural areas and
29 Established Communities outside of the Beltway; and (ii) restrictions on the use of site-specific
30 amendments or rezoning to increase residential density in Rural areas and Established
31 Communities outside of the Beltway; and

1 WHEREAS, the Climate Action Plan requires that the County government and its entities
2 must not provide subsidies for residential development projects located in Rural areas,
3 Established Communities outside of the Beltway, or Centers not served by rail; and

4 WHEREAS, the 2022–23 Update of the Pupil Yield Factors & Public School Clusters
5 demonstrates that two of the six School Clusters have student enrollment that exceeds the level
6 of service standard of one hundred five percent (105%) of the state rated capacity; and

7 WHEREAS, police staffing vacancies have increased from 9% in FY 2017 to 21% in FY
8 2023 and are projected to continue increasing; and

9 WHEREAS, the FY 2024 Capital Improvement Budget for the Fire/EMS Department
10 includes proposed expenditures of \$276,658,000, of which \$238,615,000 (86%) are programmed
11 beyond six years, and proposes 31 projects for new or renovated fire stations, twenty-nine of
12 which are programmed beyond six years; and

13 WHEREAS, the Maryland-National Capital Park and Planning Commission has reviewed
14 the residential development patterns in the County, and that review shows an annual average
15 build rate since 2014 of 2,767 and an annual average approval rate of 6,333; and

16 WHEREAS, the average annual build rate since 2014 outside Plan 2035 centers and outside
17 the Beltway is 1,461, representing 53% of the total build rate; and

18 WHEREAS, the evidence shows that new development is occurring outside of Plan 2035
19 centers and the Capital Beltway at a higher rate than inside those areas; and

20 WHEREAS, the District Council concludes that the growth of residential development
21 primarily within Plan 2035 Established Communities has contributed to increased traffic and
22 congestion where the primary mode of transportation is by private vehicle; and

23 WHEREAS, the District Council concludes that continued residential development at the
24 current rate outside of the Plan 2035 centers and outside of the Beltway will place additional
25 demands on roadways of the County currently operating at LOS D, E, and F, thereby
26 exacerbating the risks to public welfare, health, and safety associated with such roadways as
27 identified by the Master Plan of Transportation; and

28 WHEREAS, the District Council concludes that the growth of residential development
29 primarily within Plan 2035 Established Communities has contributed increased demands on
30 public safety and school facilities; and

1 WHEREAS, the District Council concludes that continued stress on the County’s
2 transportation, public safety, and school infrastructure will also impose additional burdens on
3 County revenues or a reduction in services to other County infrastructure needs; and

4 WHEREAS, the District Council concludes the continued residential development pattern
5 at the current rate will significantly impede on the County’s goals of Plan 2035; and

6 WHEREAS, in order to manage the effects of the growth of residential development on
7 traffic and safe vehicular and pedestrian circulation, provision of public safety facilities and
8 staffing, and school construction, and balance the distribution of new building permits, a permit
9 allocation system is needed to grow the County at a reasonable pace and in designated areas
10 consistent with Plan 2035; and

11 WHEREAS, by implementing a growth allocation plan, infrastructure needs can be better
12 addressed while also furthering the intended development pattern envisioned for the county; and

13 WHEREAS, the permit allocation system would apply to residential construction that
14 meet the definition of “single family detached,” “single family-attached,” and “multifamily”; and

15 WHEREAS, the District Council finds that imposing a program of limiting and
16 allocating residential building permits under Subtitle 4 of the County Code constitutes a fair
17 exercise of the police power, furthers the public interest by reducing the impact on the County’s
18 transportation system, public safety facilities and staffing, and school facilities; provides the
19 County time to evaluate its public facilities adequacy tests; falls within the County’s authority to
20 avoid scattered or premature subdivision or development of land because of the inadequacy of
21 public infrastructure; and promotes the development of residential housing in locations identified
22 by Plan 2035 as most appropriate for infill development.

23 NOW, THEREFORE, BE IT RESOLVED by the County Council of Prince George’s
24 County, Maryland, sitting as the District Council for that part of the Maryland-Washington
25 Regional District in Prince George’s County, Maryland, that a residential permit allocation
26 process be hereby approved for calendar years 2024 through 2029, as follows:

27 **Annual Permit Allocation:** Reviewed annually, the District Council will limit the
28 allocation of residential building permits to set number of dwelling units. The annual review
29 shall consist of a briefing of the District Council prior to September 30th by the Maryland-
30 National Capital Park and Planning Commission, the Department of Permitting, Inspections and
31 Enforcement and the Economic Development Corporation regarding existing and projected

1 development patterns, consistency with Plan 2035 goals and policies, and adequacy of public
2 facilities.

3 BE IT FURTHER RESOLVED that for calendar year 2024, the District Council will limit
4 the allocation of residential building permits to 2,800 dwelling units, allocated as follows:

5 **Priority Area 1:** All of the area within Transportation Service Area 1 (TSA 1), including
6 any Regional Transit District or Local Center any part of which is within TSA 1, and including
7 any Regional Transit District or Local Center any part of which is within one mile of I-95, or
8 I-95/I-495 Capital Beltway – 2,100 dwelling units.

9 **Priority Area 2:** The area within Transportation Service Area 2 (including Local Centers
10 not within Priority Area 1) – 670 dwelling units, further allocated as 200 dwelling units North of
11 Route 50; 240 dwelling units South of Route 50, but North of Route 4; and 230 dwelling units
12 South of Route 4.

13 **Priority Area 3:** The area within Transportation Service Area 3 – 30 dwelling units.

14 BE IT FURTHER RESOLVED that The Planning Department of the Maryland-National
15 Capital Park and Planning Commission shall develop proposed guidelines and procedures, for
16 submission and approval by the Council, to administer and implement the policies adopted by
17 this Resolution.

1 BE IT FURTHER RESOLVED that the Council will establish a task force to identify
2 financing, efficiencies, and similar mechanisms to remedy existing and future public facility
3 inadequacies.

Adopted this _____ day of _____, 2023.

COUNTY COUNCIL OF PRINCE GEORGE’S
COUNTY, MARYLAND, SITTING AS THE
DISTRICT COUNCIL FOR THAT PART OF
THE MARYLAND-WASHINGTON REGIONAL
DISTRICT IN PRINCE GEORGE’S COUNTY,
MARYLAND

BY: _____
Thomas E. Dernoga
Chair

ATTEST:

Donna J. Brown
Clerk of the Council