

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

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**Meeting Date:** 10/14/2003

**Reference No.:** CB-72-2003

**Proposer:** Dernoga

**Draft No.:** 2

**Sponsors:** \_\_\_\_\_

**Item Title:** A Subdivision Bill deleting certain provisions of the Subdivision Ordinance that allow the development of certain property notwithstanding the inadequacy of public road facilities

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**Drafter:** Ralph E. Grutzmacher  
Legislative Officer

**Resource** Andrew D. Eppelmann  
**Personnel:** Legislative Aide

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**LEGISLATIVE HISTORY:**

**Date Presented:** 9/30/2003

**Executive Action:** \_\_/\_\_/\_\_\_\_ \_\_

**Committee Referral:** 9/30/2003 PZED

**Effective Date:** \_\_/\_\_/\_\_\_\_

**Committee Action:** 10/8/2003 FAV(A)

**Date Introduced:** 10/14/2003

**Public Hearing:** \_\_/\_\_/\_\_\_\_ \_\_:\_\_ \_\_

**Council Action:** 10/14/2003 RECOMMIT

**Council Votes:** PS:A, MB:A, SHD:A, TD:A, CE:A, DCH:A; TH:A, TK:A, DP:A

**Pass/Fail:** P

**Remarks:** \_\_\_\_\_

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**PLANNING, ZONING & ECON. DEV. COMMITTEE REPORT**

**10/8/03**

Committee Vote: Favorable with amendments, 5-0 (In favor: Council Members Harrington, Dernoga, Dean, Exum and Knotts)

CB-72-2003 amends the Subdivision Regulations to delete the provisions authorizing the Planning Board to find transportation facilities adequacy based on an applicant payment of an improvement contribution, or "mitigation."

Council Member Dernoga, the bill's sponsor, discussed the impact of recent court decisions which eliminated District Council review of Planning Board decisions concerning mitigation of inadequate transportation facilities. Mr. Dernoga explained that without the opportunity for

Council review of these decisions, the provisions allowing the use of mitigation should be deleted.

The Planning Board opposed CB-72 and provided the following comments. The ability to mitigate inadequate transportation facilities for new development proposals is particularly useful to achieve the development objectives of the General Plan for the Developed Tier, which promotes capturing a greater share of the county's total forecast of residential and employment growth as a preferred, or desired, development alternative. Much of the transportation infrastructure in the Developed Tier is constrained by difficulties in obtaining rights-of-way. Use of mitigation can permit redevelopment opportunities that might otherwise be prohibited.

The Planning staff expressed concern that CB-72 eliminates mitigation as a technique to allow development to go forward when a major reason for traffic congestion is traffic from other jurisdictions passing through. If mitigation is eliminated, something else will be needed to permit economic development in some areas of the county. Otherwise, this will cause development to relocate to other jurisdictions and the county will continue to receive the traffic.

The Maryland-National Capital Building Industry submitted a letter requesting an unfavorable recommendation on CB-72. The letter states: "Where applicable, transportation mitigation does allow for enhancements in limited circumstances to be made to roadways not up to Level of Service standards without worsening a traffic situation. The removal of these tools will not improve the planning process and will hinder the County's goal of attracting quality economic development."

The City of Bowie submitted a letter recommending a favorable vote on CB-72, provided that amendments are made to permit traffic mitigation only within the Developed Tier. The letter states: "Regarding traffic mitigation, the City Council's longstanding policy is that traffic mitigation should not be permitted in the Developing Tier or Rural Tier. Development must adhere to the County's Level of Service standards for those tiers. Allowance for mitigation in the Developed Tier makes sense because, in many cases, the road network is already fully developed. Not having mitigation in the Developed Tier would thwart the County's emphasis on attracting redevelopment and revitalization there as a Countywide priority."

The Principal Counsel found the bill to be in proper legislative form. The Office of Audits and Investigations determined there should be no negative fiscal impact on the County as a result of enacting CB-72-2003.

The following individuals spoke in support of CB-72: Joe Meinert, representing the City of Bowie; Richard Shroder, Aurelio Nepa, Bernadette Price, and Norman Clements.

The bill's sponsor made a motion for a favorable report with an amendment to permit transportation mitigation in the Developed Tier; the motion passed 4-1. An additional amendment was proposed to also permit mitigation along the MD Route 4 corridor from the District of Columbia border to the intersection with MD Route 223; the motion for this amendment passed 5-0. The motion for a favorable report on Draft-2 of the bill, including both amendments, passed 5-0.

**BACKGROUND INFORMATION/FISCAL IMPACT**  
**(Includes reason for proposal, as well as any unique statutory requirements)**

Recent court decisions have eliminated review, by the District Council, of Planning Board decisions concerning mitigation of inadequate transportation facilities. Legislation to restore such review has not been enacted by the General Assembly. Since review by the District Council was a critical element to ensure appropriate application of the mitigation technique, the proposed legislation will delete the use of the remaining provisions concerning the mitigation technique.

**CODE INDEX TOPICS:**