

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

Bill No. CB-77-2001

Chapter No. _____

Proposed and Presented by Council Member Scott

Introduced by _____

Co-Sponsors _____

Date of Introduction _____

SUBDIVISION BILL

1 AN ACT concerning

2 Traffic Facilities Adequacy and Traffic Mitigation

3 For the purpose of clarifying the traffic facilities adequacy language for decisions and appeals in
 4 traffic mitigation cases and in subdivision cases generally, providing that appeals from Planning
 5 Board to District Council in traffic mitigation cases may be filed within 30 days of the Board's
 6 notice of action on the final plat, and otherwise clarifying procedures for and language
 7 concerning traffic facilities adequacy findings and traffic mitigation procedures.

8 BY repealing and reenacting with amendments:

9 SUBTITLE 24. SUBDIVISIONS.

10 Section 24-124(a),

11 The Prince George's County Code

12 (1999 Edition, 2000 Supplement).

13 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
 14 Maryland, that Section 24-124(a) of the Prince George's County Code be and the same is hereby
 15 repealed and reenacted with the following amendments:

16 SUBTITLE 24. SUBDIVISIONS.

17 DIVISION 4. REQUIREMENTS; TRANSPORTATION AND CIRCULATION.

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

19 (a) Before any preliminary or final subdivision plat [may be] is approved, the Planning
 20 Board shall find [that:] compliance with the requirements in (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), or

1 (a)(6) below. If compliance was found at preliminary plat approval, no new finding is required
 2 at final plat. If authorized below, final plat approval may be appealed to the District Council.

3 (1) Roads Adequacy Findings.

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

9 [(2)] (B) The traffic generated by the proposed subdivision will be
 10 accommodated on major intersections and major roadways within the established study area, so
 11 [such] that they will [be functioning] function below the minimum peak-hour service [levels]
 12 level thresholds adopted by the Planning Board in the "Guidelines for the Analysis of the Traffic
 13 Impact of Development Proposals," as [may be] amended from time to time. ([hereinafter the] In
 14 this section, "study area" refers to major intersections and major roadways, as defined in the
 15 "Guidelines."); or]

16 [(3)] (2) Alternate Finding: Subdivider Funding. Roadway improvements or trip
 17 reduction programs fully funded by the subdivider [or his heirs, successors, and assigns will]
 18 shall alleviate the inadequacy, as defined in the "Guidelines[; " or] ."

19 [(4)] (3) Alternate Finding: Surplus Capacity. Roadway improvements fully funded
 20 by the subdivider and the County and/or the State government which will alleviate any
 21 inadequacy [as defined in the "Guidelines,"] and which will provide surplus capacity, may be
 22 eligible for the establishment of a Surplus Capacity Reimbursement Procedure, as defined in the
 23 "Guidelines," provided:

24 (A) The transportation facility improvements are identified in the Adopted
 25 County Capital Improvement Program or current State Consolidated Transportation Program,
 26 with [an amount greater than zero percent (0%) but less than one hundred percent (100%)] part
 27 but less than all of the total cost to complete the improvements; and

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

30 (C) The necessary permits for construction of the transportation facility
 31 improvements have been issued [by the appropriate public agency]; and

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

[(5)] (4) Alternate Finding: Subdivider Participation. Roadway improvements participated in by the subdivider will alleviate any inadequacy, as defined by the "Guidelines." [Such] Subdivider participation shall be limited to improvements defined in paragraph [(4)] (3), above, and with sufficient surplus capacity to adequately accommodate the subdivider's proposed traffic impact. The amount and timing of the subdivider's participation shall be determined by the Planning Board [as defined] , as stated in the "Guidelines[;" or] ."

[(6)] (5) Alternate Finding: Traffic Mitigation. [Consideration of certain mitigating actions is appropriate] To find traffic facilities adequacy, the Planning Board may approve traffic mitigation measures, as defined in the [approved] "Guidelines for Mitigation Actions[.]" and as provided below:

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

(B) The] , and if the provisions for adequate roads, as described in [Subparagraph] (a)(1), above, are not met[.] , then the subdivider may proceed as follows:

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

(ii) [Where] If projected traffic service is calculated to be greater than [but less than twenty-five percent (25%) above] the acceptable peak-hour service level threshold [as]

1 defined in the "Guidelines[.]" but less than twenty-five percent (25%) above that threshold, then
 2 the Planning Board may require that any physical improvements or trip reduction programs fully
 3 funded by the subdivider [or his heirs, successors, and assigns shall] fully abates the impact of
 4 one hundred and fifty percent (150%) of all traffic generated by the proposed subdivision in the
 5 study area. [Following the] After development of the proposed subdivision and implementation
 6 of the mitigation action, the total traffic service within the study area [will] shall be reduced to no
 7 lower than the acceptable peak-hour service level threshold defined in the "Guidelines" [; or] .

8 [(C) Where] (B)If existing traffic service in the service area is at [the] an
 9 acceptable peak-hour service level threshold [or better, as defined in the "Guidelines,"] , and if
 10 the total traffic service level in the study area is no greater than ten percent (10%) above the
 11 acceptable peak-hour service level threshold [as] defined in the "Guidelines," and if the proposed
 12 subdivision generates [less] fewer than twenty-five (25) A.M. or P.M. peak-hour trips, then the
 13 Planning Board may require that the subdivider [or his heirs, successors, and assigns] shall be
 14 responsible for the subdivider's pro rata share of the cost of the physical improvements necessary
 15 to alleviate the inadequacy [as defined in the "Guidelines."] .

16 [(D)] (C) Planning Board action on [a] proposed mitigation [action] may be
 17 appealed to the District Council by [the applicant or by] any party of record, after approval of the
 18 final plat. [The appeal shall be filed with the Clerk of the Council within thirty (30) days
 19 following notice of action on the mitigation proposal by the Planning Board to all parties of
 20 record. The Planning Board shall give notice of its action by sending a copy to each party of
 21 record by first-class mail, postage prepaid.]

22 (i) The Board shall give notice of its mitigation action after approving the
 23 resolution for a subdivision's final plat. Notice shall be given to all parties of record in
 24 preliminary and final plat proceedings by sending copies of the final plat resolution by first-class
 25 mail. Any party of record may file an appeal with the Clerk of the Council within thirty (30)
 26 days of the date of the Board's notice. The notice sent to each party shall advise the party of the
 27 right to file an appeal and the 30-day filing requirement.

28 (ii) [The] An appeal shall be based upon the record [as] made before the
 29 Planning Board [and shall set forth the reasons for the appeal]. In deciding an appeal [of a
 30 mitigation action], the Council shall exercise original jurisdiction.

(iii) [For any such appeal,] After reviewing the record and arguments for and against an appeal, the Council may[, based on the record,] approve, approve with conditions, remand, or deny the mitigation [action; or] .

[(7)] (6) Alternate Finding: Federal Funding. There is a proposal for such roads on a plan being considered by the United States Department of Transportation and/or Federal Highway Administration, [and which is funded for] a plan with construction funding within the next ten years. The Planning Board may condition the approval of the subdivision on a construction schedule that minimizes any inadequacy.

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

Adopted this _____ day of _____, 2001.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Ronald V. Russell
Chairman

ATTEST:

Joyce T. Sweeney
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Wayne K. Curry
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.