

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

Meeting Date: 11/21/2000

Reference No.: CB-72-2000

Proposer: Russell

Draft No.: 3

Sponsors: Russell

Item Title: An Act permitting the Planning Board to approve private rights-of-way in the R-A, L-A-C and R-L Zones under certain circumstances and remove existing provisions concerning private rights-of-way in the R-M and M-X-T Zones

Drafter:

Resource Nell Johnson
Personnel: Legislative Aide

LEGISLATIVE HISTORY:

Date Presented: 7/25/2000

Executive Action: 12/14/2000 S

Committee Referral: 7/25/2000 PZED

Effective Date: 12/14/2000

Committee Action: 10/4/2000 FAV(A)

Date Introduced: 10/17/2000

Public Hearing: 11/21/2000 1:30 P.M.

Council Action: 11/21/2000 ENACTED

Council Votes: DB:A, JE:A, IG:A, TH:A, WM:A, RVR:-, AS:A, PS:A, MW:A

Pass/Fail: P

Remarks: _____

11/21/2000 – Amended on the floor; CB-72-2000 (DR-3) enacted

PLANNING, ZONING & ECONOMIC DEV. COM. REPORT

DATE: 10/4/2000

Committee Vote: Favorable with amendments, 3-0 (In favor: Council Members Russell, Scott and Maloney.)

This legislation amends Section 24-128 of the Subdivision Regulations to allow private rights-of-way to serve single-family detached or single-family attached dwellings in the R-A, L-A-C and R-L Zones within a planned golf course community. Staff summarized examples of existing provisions

that allow the Planning Board to approve subdivisions with private rights-of-way serving single-family detached dwellings.

Staff summarized referral comments that were received and indicated proposed amendments suggested by the Planning Board and the Department of Public Works and Transportation. Council Member Russell, the bill's sponsor, explained that he was informed of the concerns raised by the agencies and that he instructed staff to work with the appropriate representatives to develop acceptable amendments to address the various concerns. William Knight, of Knight Manzi, Nussbaum & LaPlaca, P.A., spoke in support of the legislation indicating that it will allow design flexibility, the ability to provide rural sections for roads where urban sections may have been required and ultimately delivery of a better product within a proposed development known as Oak Creek.

The Planning Board supports the legislation and has provided recommendations to amend the legislation to address specific concerns. The Board's concerns are as follows:

With the exception of a private easement to serve no more than four (4) two-acre lots in any one of the O-S, R-A, R-E or R-R Zones, the various provisions in the Subdivision Regulations for roads serving single-family detached dwelling units all contain some reference to specific standards for the construction of the roads and/or approval by the Department of Public Works and Transportation (DPW&T). As drafted, CB-72-2000 (Draft 1) does not propose any specific road standards, nor does it contain any authority that the roads provided must be approved by the DPW&T.

CB-72-2000 (Draft-1) proposes an amendment to allow either a public or private utility easement. This new language is reflected on page 2, line 1 of Draft-1.

Section 24-128(b)(12) of the Subdivision Regulations currently states:

- (12) Private roads provided for by this Subsection shall have a public utility easement contiguous to the right-of-way. Said easement shall be at least ten (10) feet in width, and shall be adjacent to either right-of-way line.

Additionally, Section 24-122(a) of the Regulations states:

- (a) When utility easements are required by a public utility company, the subdivider shall include the following statement in the dedication documents: Utility easements are granted pursuant to the declaration recorded among the County Land Records in Liber 3703 at Folio 748.

This declaration establishes the Terms and Provisions of Public Utility Easements. Currently, all private roads, rights-of-way or easements authorized pursuant to Subtitle 24 (Subdivision Regulations) must have an associated Public Utility Easement. The language provided in CB-72 (Draft-1), page 2, line 1, would then be applicable to all private roads, rights-of-way or easements authorized pursuant to Subtitle 24 and not just a golf course community in the R-A, L-A-C and R-L Zones.

The Planning Board also commented that it appears the intent of the legislation is that it be utilized in the development of a planned golf course community that contains land in ALL three of the zoning categories listed (R-A, L-A-C and R-L). To construe that it may be applicable to one or two, and not all three of the zoning categories listed in the bill may cause conflicts with the existing provisions for private rights-of-way separately established for each of those zoning categories.

A final comment made by the Planning Board concerns Section 24-128(b)(7)(D) of the Subdivision

Regulations. This section was a result of legislation enacted to facilitate the development of a project known as Port America. Subsequent to the conversion of that project to the development now known as National Harbor, legislation was enacted that provides for private roadways consistent with that new proposal (Section 24-128(b)(13) of the Regulations). With the incorporation of Section 24-128(b)(13) into the Subdivision Regulations in 1997, Section 24-128(b)(7)(D) is no longer necessary.

The Legislative Officer provided comments concerning the new language proposed in Draft-1 for private utility easements. His comments indicate that “public utilities” are water and sewer, energy, and telecommunications providers. Because public utilities have an obligation to provide service, the Subdivision Regulations require an area to accommodate public utility facilities (infrastructure). If the subdivider wants to provide easements for “private utilities,” it is free to do so, but it must also provide the necessary easements for public utilities.

The following amendments to Draft-1, currently reflected in Draft-2, address the various issues presented and discussed at the Committee meeting:

In subsection (b)(12) (page 2, line 1 of Draft-1): delete the words “either” and “or private.”

Subsection (b)(14) (beginning on page 2, line 5 of Draft-1) should read:

“For an integrated development which shall contain land in each of the following R-A, L-A-C and R-L Zones which is a planned golf course community, the Planning Board may approve a subdivision that includes single-family detached or single-family attached dwellings with private roads and private easements for public utilities in accordance with the following requirements.”

Subsection (b)(14)(i) (beginning on page 2, line 9 of Draft-1) after “a statement explaining why private roads or rights-of-way”, insert “and private easements for public utilities notwithstanding the restrictions of Section 24-128(b)(12)...”

Subsection (b)(14)(ii) (beginning on page 2, line 13 of Draft-1) at the beginning of the sentence, insert “Department of Public Works and Transportation shall review and comment and...” and at the end of this subsection after the word “subdivision”, insert “and that they are consistent with a safe, efficient hierarchical street system for the development.”

At the end of subsection (b)(12)(v) (page 2, line 29 of Draft-1), insert “Private roads shall be bonded, permitted and inspected by the Department of Public Works and Transportation pursuant to Section 23-142(b) of the Prince George’s County Code and shall include public storm drain easements. Private streets for townhouses shall be constructed in compliance with Section 27-433(e) of the code or as determined by the Department of Public Works and Transportation. All private roadways serving more than four (4) lots or dwelling units shall be constructed to remain passable during a 100-year flood event pursuant to Section 23-136(a)(4)(D) of the Prince George’s County Code.”

Beginning on page 2 of Draft-2, Section 24-128(b)(7)(D) is included with brackets to indicate that by action of CB-72-2000, this section (which pertains to the project formerly known as Port America), is being removed from the code. This amendment is also reflected in the title change for CB-72-2000.

The County Executive supports the legislation with amendments to address the concerns raised by the Department of Public Works and Transportation. These amendments are described above and reflected in Draft-2. The Office of Audits and Investigations determined there should be no negative fiscal impact on the County as a result of enacting CB-72-2000.

BACKGROUND INFORMATION/FISCAL IMPACT

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

The Planning Board is currently permitted to approve preliminary plans of subdivision containing private roads in specific zones, under a number of circumstances. This legislation allows the Planning Board to approve subdivisions with private roads to serve single-family detached or single-family attached dwellings in the R-A, L-A-C and R-L Zones under certain circumstances.

CODE INDEX TOPICS: