

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

Meeting Date: 6/8/99

Reference No.: CB-15-1999

Proposer: Estep

Draft No.: 4

Sponsors: Estep

Item Title: A Subdivision Amendment for the purpose of amending the provisions of Subtitle 24 and the transitional provisions of Section 4, Chapter 64, Laws of Prince George's County, Maryland 1997, concerning Adequate School Facilities Tests

Drafter: Jackie Brown
PZED Committee Director

Resource Personnel: Cindy Blackistone
Legislative Aide

LEGISLATIVE HISTORY:

Date Presented:	3/9/99	Executive Action:	___/___/___	US
Committee Referral:	3/9/99	PZED	Effective Date:	8/2/99
Committee Action:	4/7/99	FAV(A)		
Date Introduced:	4/20/99			
Pub. Hearing Date:	6/8/99	1:30 P.M.		

Council Action: 6/8/99 ENACTED

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

Pass/Fail: P

Remarks: _____

6/8/99: CB-15-1999 (DR-3) was amended on the floor; (DR-4) was enacted

PLANNING, ZONING & ECONOMIC DEV. COM. REPORT

DATE: 4/7/99

Committee Vote: Favorable with amendments, 4-0-1 (In favor: Council Members Gourdine, Hendershot, Maloney and Russell. Abstained: Council Member Bailey).

Staff gave an overview of the legislation indicating that this bill will remove some of the exemptions to the Adequate School Facilities test approved by the Council with the adoption of CB-3-1997 (DR-6). Specifically, CB-15-1999 proposes to remove the grandfathering provisions specified in an

uncodified section of CB-3-1997 (DR-6) as follows: "any project for which a Detailed Site Plan or Specific Design Plan has been filed and accepted as of November 1, 1996; or for a subdivision for which grading has begun for any phase pursuant to a validly issued grading permit." In addition, CB-15-1999 requires that an Adequate School Facilities test be applied at the time of building permit for any lot shown on a record plat that has been recorded for more than six (6) years. The provisions of CB-3-1997 grandfathered lots which were the subject of preliminary plats of subdivision approved between January 1, 1991 and January 8, 1998.

Council Member Estepp, the bill's sponsor, indicated to the Committee that he presented this legislation due to the fact that CB-3-1997 provided grandfathering which resulted in an excessive number of units in the "pipeline" being exempted from the Adequate School Facilities test. Mr. Estepp explained that CB-15-1999 is the same legislation as CB-61-1998 which he had co-sponsored in 1998 and that was referred to *Commission 2000* to address as part of the task force's charge to prepare proposals for regulating the development "pipeline" in conjunction with its efforts to prepare a growth management plan for the County. He expressed his concern that an interim measure is needed to address the "pipeline" issue prior to *Commission 2000* being able to provide a recommendation which could take six months to one year.

As part of the Committee's discussion, Council Member Estepp suggested that amendments to CB-15-1999 may be considered in the areas of utilizing State Rated Capacity as opposed to Preferred Operational Capacity (as currently utilized) in applying the Adequate School Facilities Test, exemptions for projects which had already obtained street construction permits and a sunset provision for the legislation for the purpose of allowing *Commission 2000* an opportunity to provide a better recommendation of "pipeline" issues.

John Funk, representing the Planning Board, explained to the Committee that the Board took no position on CB-15-1999 since *Commission 2000* was charged by CR-62-1999 with addressing the pipeline recommendations included in the County Council's paper, *Managing Growth in the 21st Century: A Smart Growth Initiative in Prince George's County*. Even though the legislation is an equitable approach to the Adequate School Facilities test, the Planning Board took no position until the task force has an opportunity to comprehensively review adequate public facilities policies. Mr. Funk continued addressing the Committee explaining that the immediate impact of CB-15-1999 is that 13,000 lots would be subject to the Adequate School Facilities test; in the first year, 20 percent of building permit applications would be subject. In the Planning Department's review of development activity between 1993 and 1997, Mr. Funk commented that the average length of time between record plat and building permit issuance is 4.7 years. The Planning Board also recommends an amendment on page 2, line 1, if the legislation moves forward. This line should be rewritten to read: issued for any lot shown on a record plat that has been **approved** for more than six (6) years. The approved date is readily available and easy to identify whereas the actual date of recordation can require more extensive research.

Linda Owens addressed the Committee expressing her concerns that there is no differentiation being made for the School Facilities Surcharge and Adequate Public Facilities Fees at the time of building

permit issuance when these fees are collected. Mrs. Owens also recommended that the methodology being utilized for the test be examined more closely especially in the area of determining five-year projections. Donna Hathaway Beck spoke in support of the bill and also suggested that the methodology on projections be strengthened especially in relation to utilizing State Rated Capacity instead of Preferred Operational Capacity.

A number of representatives of the development and building communities presented their concerns regarding the legislation. Included were Stephen McAllister, Paul Rodbell, Thomas Haller, Bill Shipp, and Norman Rivera. They presented specific concerns and suggestions regarding the elimination of certain grandfathering provisions especially for the larger, long-term projects. Carmen Anderson, Prince George's County Civic Federation, and Dorothy Troutman spoke in support of the legislation.

A motion for a favorable report for the bill was made by Council Member Maloney and seconded by Council Member Hendershot. During discussion of the motion, Mr. Hendershot made a motion for an amendment to CB-15-1999 to include an exemption for any developments which have approved street construction permits; the motion failed due to lack of a second. A motion made by Mr. Maloney and seconded by Mr. Hendershot to amend the legislation to include a provision that State Rated Capacity be utilized instead of Preferred Operational Capacity for the purposes of applying the Adequate School Facilities test carried, 4-0-1 (In favor: Council Members Gourdine, Hendershot, Maloney and Russell. Abstained: Council Member Bailey). A motion made by Mr. Maloney and seconded by Mr. Gourdine to amend the bill to include a provision prohibiting the mixing of School Facilities Surcharge and Adequate Public Facilities Fees carried, 3-2 (In favor: Council Members Gourdine, Maloney and Russell. Opposed: Council Members Bailey and Hendershot). A motion by Council Member Gourdine, seconded by Council Member Maloney to amend the legislation to change six (6) years to three (3) years on page 2, line 1 carried, 3-2 (In favor: Council Members Gourdine, Maloney and Russell. Opposed: Council Members Bailey and Hendershot). A motion made by Council Member Hendershot and seconded by Council Member Bailey to amend the bill to include an exemption for any project for which ten percent of the building permits have been issued failed, 2-3 (In favor: Council Members Bailey and Hendershot. Opposed: Council Members Gourdine, Maloney and Russell).

The Committee voted a favorable recommendation (4-0-1) on CB-15-1999 as amended including technical amendments on page 1, line 13 and page 3, line 5, to add "1997" after "Maryland" in both places.

After the vote was taken on the legislation, Council Member Bailey expressed her concern that CB-15-1999 is pre-empting some of the work that was given to *Commission 2000* to address at the direction of the County Council.

BACKGROUND INFORMATION/FISCAL IMPACT

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

On November 18, 1997, the County Council adopted CB-3-1997 (DR-6), an Act concerning Adequate School Facilities. The bill became law on January 9, 1998. The current law provides for an adequate school facilities test at the time of building permit for projects where the Preliminary Plat of Subdivision approval was before January 1, 1991.

The current law also provides for certain exemptions. These exemptions include any project for which a Detailed Site Plan or Specific Design Plan has been filed and accepted as of November 1, 1996, and recorded lots for which grading has begun pursuant to validly issued active grading permits issued on or before January 9, 1998. This legislation removes those exemptions.

This legislation will also limit the validity of a Schools APF finding to six years after plat recordation. In other words, in order to obtain a building permit on a lot recorded more than six years prior to permit issuance, the proposed development would be subject to another schools APF test.

Under this proposal, additional older, unbuilt lots (those with recordation before 1992) would later become subject to the Schools APF test. Under CB-3-1997 as currently approved, no additional pipeline lots would become subject to the test -- the lots exempted by CB-3-1997 are currently exempt forever, whether they are constructed this year or in 20 years.

CODE INDEX TOPICS: