

ARTICLE XV Growth Management
§267-123. Adequate Public Facilities.

A. Annual growth report.

(1) The Department of Planning and Zoning shall prepare an annual growth report describing growth and facility capacity in accordance with Paragraphs (2) and (3) of this Section. The annual growth report shall be submitted by the Director of Planning to the County Council by June 1 and shall become effective July 1.

(2) Growth trends -- The annual growth report shall describe the growth that has occurred in the preceding year. The information in the report shall be aggregated by the appropriate facility service areas, and the report shall include, but need not be limited to, the following information:

(a) Number of building permits approved for new dwelling units, by type;

NEW (b) Number of residential units for which preliminary plan approval has been issued but for which building permits have not yet been issued;

(c) The number of building permits approved for nonresidential uses, by type and total floor area;

(d) Estimated population, households, and employment;

(e) Comparisons with the same information for the previous 5 years;

(f) Comparison with the same information for the Baltimore region and other political subdivisions; and

(g) Population, household, and employment projections for 5- and 10- year periods.

(3) Specific facility analysis -- The annual report shall include an analysis of the current and future utilization and capacity of specific public facilities and services. The analysis shall include, but need not be limited to the following information:

(a) Schools.

[1] Full-time enrollment for each school district; as of September 30, or as of any other official reporting date as set by the State Board of Education or the County Board of Education;

[2] Rated capacity and utilization percentage of each school facility, with capacity based on the State rated capacity;

[3] One-year, 2-year, 3-year, 4-year and 5-year enrollment projections for each facility, including a description of the method of projecting enrollment in each facility;

[4] Pupil yield factor by school level for each type of dwelling unit;

[5] List of approved capital projects for new or expanded school facilities and the identified schools that will be relieved, including projects enrollment and opening date;

[6] School districts map for each level of school facilities; and

NEW [7] Modified enrollment projections for each district which include planned units remaining (recorded lots and units projected from approved preliminary plans) and projected units from vacant land zoned for residential purposes.

(b) Sewerage.

[1] Sewage generation (in gallons per day) for each type of dwelling unit and commercial/industrial use (average);

[2] Inventory/tabulation of existing flows, including all allocations to the system, and the total system capacity;

[3] Sewage generation projections for the system, including the basis for their computation; and

[4] A list of capital projects, contained in the capital improvements program, for expanded sewerage facilities, including project status.

(c) Water.

[1] Water usage (in gallons per day) for each type of dwelling unit and commercial and industrial use (average);

[2] Inventory/tabulation of existing water consumption, including all allocations to the system, and the total system capacity;

[3] Water usage/demand projections for the system, including the basis for their computation; and

[4] A list of capital projects, contained in the capital improvements program, for expanded water facilities, including project status.

(d) Roads.

[1] List of approved transportation capital projects outlined in the Harford County Capital Improvement Program and the State Consolidated Transportation Program;

[2] List of the existing Level of Service (LOS) at major intersections in the County as contained in the annual growth report; and

[3] List of the existing average daily traffic (ADT) on major roadways in the County as contained in Annual Growth Report.

(4) Amendments -- The Director of Planning may amend the annual growth report to correct factual errors or to include significant changes in facility capacity. Such amendments shall be presented to the County Council within 210 calendar days of the effective date of the report.

B. Adequacy standards (minimum acceptable level of service).

(1) Testing for adequate school capacities as provided under Subsections (2)(a)[1][a] and [b] shall occur on December 1 and June 1 of each year. If such testing reveals that the enrollment at any school exceeds the State rated capacity as provided under (2)(a)[1][a] or [b] the Annual Growth Report shall be amended to reflect these changes and the amendments shall be presented to the County Council.

(2) Residential development. Approval of residential subdivision plans and site plans for multi-family development shall be subject to findings of adequate capacity based on the standards set in this subsection, and the current and projected use level described in the annual growth report:

(a) Schools

[1] Preliminary approval. Preliminary subdivision plans exceeding 5 lots and site plans for multi-family residential developments exceeding 5 dwelling units shall not be approved at locations where either of the following conditions exists:

[a] The enrollment at the elementary school which serves the site is greater than 105% of the State rated capacity, or is projected to be greater than ~~155%~~ 105% within 3 years; or

FOH: Correct typo to read 105%.

[b] The enrollment of either the middle school or high school which serves the site is greater than 105% of the State rated capacity or is projected to be greater than 105% within 3 years.

[2] Conditional review. If Paragraphs (2)(a)[1][a] or [b] of this subsection prevent approval of a preliminary subdivision plan or a site plan, the Department of Planning and Zoning may proceed

with conditional review of the plan and place it on a waiting list arranged by date of completion of the review. Record plats, grading permits, and public works agreements for utilities or roads shall not be executed by the County until the plan for the project is removed from the waiting list and preliminary approval is granted. Removal from the waiting list shall occur only when the condition that prevented approval under Paragraphs (2)(a)[1][a] or [b] of this subsection no longer exists.

NEW [3] Capital project. A preliminary subdivision plan, or a site plan, may be approved when the enrollment of a school serving the site is greater than 105% of the State rated capacity, if the following conditions exist:

[a] The approved capital budget contains a capital project that has appropriations sufficient to fund the construction of a new school, a school addition, or school renovation, which upon completion, will reduce the enrollment at the school which serves the site below 105% of the State rated capacity;

[b] Actual construction of the capital project has begun; and

[c] The capital project is scheduled to be completed and operational within 1 year.

[4] GRANDFATHERING. THE GRANTING OF GRADING PERMITS SHALL BE CONTINGENT UPON A FINDING BY THE ZONING ADMINISTRATOR OF ADEQUATE SCHOOL CAPACITIES FOR THAT SUBDIVISION AT THE TIME THE GRADING PERMIT IS REQUESTED BY THE DEVELOPER. IF DEVELOPMENT IS EXEMPT FROM THE PROVISIONS OF THIS SUBSECTION CONCERNING THE ADEQUACY OF SCHOOL CAPACITIES, THE GRANTING OF GRADING PERMITS FOR SUCH DEVELOPMENT IS SUBJECT TO THE AVAILABILITY OF CAPACITY IN THE SCHOOLS AT THE TIME OF APPLICATION FOR THE GRADING PERMIT.

[A] THE ZONING ADMINISTRATOR SHALL GRANT APPROVAL FOR A GRADING PERMIT ONLY IF ALL ELEMENTARY, MIDDLE AND HIGH SCHOOLS THAT WILL SERVE THE SUBDIVISION ARE BELOW 105% OF STATE RATED CAPACITY AND PROJECTED TO REMAIN SO FOR THE NEXT 3 YEARS.

[B] THE ZONING ADMINISTRATOR SHALL, AS PART OF THE ANNUAL GROWTH REPORT IN SECTION 267-123A, DETERMINE THE REMAINING STUDENT CAPACITY FOR EACH ELEMENTARY, MIDDLE AND HIGH SCHOOL IN THE COUNTY. FURTHERMORE, THE ADMINISTRATOR SHALL MAINTAIN A TALLY OF THE ADDITIONAL STUDENT LOADS ANTICIPATED AS A RESULT OF EVERY SUBDIVISION OR SITE PLAN GRADING PERMIT THAT IS APPROVED. AS SOON AS THE ANTICIPATED STUDENT POPULATION FOR A SCHOOL REACHES 105% OF THE STATE RATED CAPACITY, FURTHER APPROVALS OF GRADING PERMITS WITHIN THAT SCHOOL'S DISTRICT SHALL CEASE.

[5] CONDITIONAL REVIEW. THE ZONING ADMINISTRATOR MAY PROCEED WITH CONDITIONAL APPROVAL OF A GRADING PERMIT APPLICATION AND PLACE IT ON A WAITING LIST ARRANGED BY DATE OF RECEIPT OF THE CONDITIONAL APPROVAL. AS CAPACITY BECOMES AVAILABLE, APPROVAL OF THE APPLICATIONS SHALL BE MADE IN THE ORDER OF CONDITIONAL APPROVAL.

FOH Note: Grandfathering and Conditional Review are found under all sections except schools. We add these sections to schools.

[3] Exemptions. The provisions of this subsection shall not apply to transient housing, housing for the elderly and continuing care retirement communities.

(b) Sewerage.

[1] The County sewerage system shall be considered adequate if, taking into consideration demands on the system generated or projected to be generated by existing connections, buildings under construction

that will be connected to the system, all committed allocations evidenced by payment of area charges and connection fees, all unexpired public works utility agreements, all preliminary plans approved after the effective date of this subsection, and properties using individual sewerage systems that are anticipated to connect to the system on completion of a capital project then under construction or for which funding has been authorized, right-of-way acquisition completed and construction plans completed:

[a] Collector system to serve the proposed development are designed to accommodate expected ultimate peak gravity flows from the development and other developable land within the drainage area;

[b] Interceptors to serve the proposed development have sufficient available capacity to accommodate expected peak gravity flows from the subdivision;

[c] Pumping stations and force mains, receiving flows from the collector system in the drainage/service area, have sufficient available capacity to accommodate ultimate peak flows from the proposed development and other developable land within the drainage area;

[d] Pumping stations and force mains, receiving flows from interceptors to serve the proposed development, have sufficient available capacity to accommodate expected peak flow from the proposed development; and

[e] Treatment plant(s) have sufficient available capacity to accommodate expected annual average and maximum daily loadings from the proposed development.

[2] The County sewerage system shall also be considered adequate if there is compliance with [1][a] and [1][c] of this subsection and the County has funded projects for the improvement of the facilities necessary to comply with requirements of [1][b], [d] and [e] of this subsection.

[3] The County sewerage system shall also be considered adequate if there is compliance with [1][e] [2] of this subsection and the developer agrees to construct the improvements to the system to meet the requirements of [1][a], [b], [c] & [d] of this subsection, or the developer executes an agreement with the County for improvements to the system to meet the requirements of [1][a], [b], [c] and [d] of this subsection.

[4] If the County sewerage system is found to be inadequate, then preliminary subdivision plans exceeding 5 lots, site plans for multifamily residential developments exceeding 5 dwelling units, and extensions of previously approved preliminary subdivision plans shall not be approved.

[5] Conditional review -- If Paragraphs [1][a], [b], [c], [d] or [e] of this subsection prevents approval or the extension of a previous approval of a preliminary subdivision plan or site plan, the Department of Planning and Zoning may proceed with conditional review of the plan and place it on a waiting list arranged by date of completion of the review and, for previously approved plans, by date of the request for extension. Record plats, grading permits and public works agreements for utilities or roads shall not be executed by the County until the plan for the project is removed from the waiting list and preliminary approval or extension of the previous approval is granted. Removal from the waiting list shall occur only when the condition that prevented approval under Paragraphs [1][a], [b], [c], [d] or [e] of this subsection no longer exists.

[6] Grandfathering -- Unless an extension of the approval of the plan is granted in accordance with the subdivision regulations, development conducted in accordance with a preliminary plan approved before the effective date of Council Bill 93-26 is exempt from the provisions of this subsection concerning the adequacy of the sewerage system. If an extension of the approval of the plan is granted, the development is subject to the provisions of this subsection concerning the adequacy of the sewerage system. If development is exempt from the provisions of this subsection concerning the adequacy of the sewerage system, execution of public works utility agreements for such development is subject to availability of capacity in the sewerage system at the time of application for the public works utility agreements.

(c) Water.

[1] The County water system or community system shall be considered adequate if, taking into consideration demands on the system generated or projected to be generated by existing connections, building under construction that will be connected to the system, all committed allocations evidenced by payment of area charges and connection fees, all unexpired public works utility agreements, all preliminary

plans approved after the effective date of this subsection, and properties using individual water supply system that are anticipated to connect to the system on completion of a capital project then under construction or for which funding has been authorized, right-of-way acquisition completed and construction plans completed:

[a] The water (ADDED) distribution system is capable of providing the required pressures and flows during the maximum day demand OMITTED: “to the proposed development and the minimum required pressures for fire flows, resulting from the proposed development (ADDED), as established in the County's water and sewer design guidelines OMITTED “and plumbing code.”;

[b] Booster stations and/or transmission mains in the service area have sufficient available capacity to provide maximum day demand and minimum required pressure for fire flow to the proposed development;

[c] Storage tanks in the service area have sufficient available capacity to provide peak hour demand in addition to fire flow to the proposed development;

[d] Source and treatment facilities in the service area have sufficient available capacity to provide maximum day demand to the proposed development.

[2] The County water system or community water system shall also be considered adequate if the County or the operating entity has funded projects for the improvement of the facilities necessary to comply with the requirements of Paragraphs [1][a], [b], [c] and [d] of this subsection.

[3] The County water system or community water system shall also be considered adequate if there is compliance with [1][c] and [d] of this subsection and the developer agrees to construct the improvements to the system to meet the requirements of [1][a], [b], [c] & [d] of this subsection, or the developer executes an agreement with the County or the operating entity for improvements to the system to meet the requirements of [1][a] and [b] of this subsection.

[4] If the water system serving the proposed development is found to be inadequate, then preliminary subdivision plans exceeding 5 lots, site plans for multi-family residential developments exceeding 5 dwelling units, and extensions of previously approved preliminary subdivision plans shall not be approved.

[5] Conditional review -- if Paragraph [1][a], [b], [c] or [d] of this subsection prevents approval or the extension of a previous approval of a preliminary plan or site plan, the Department of Planning and Zoning may proceed with conditional review of the plan and place it on a waiting list arranged by date of completion of the review and, for previously approved plans, by date of the request for extension. Record plats, grading permits and public works agreements for utilities or roads shall not be executed by the County until the plan for the project is removed from the waiting list and preliminary approval or extension of the previous approval is granted. Removal from the waiting list shall occur only when the condition that prevented approval under Paragraphs [1][a], [b], [c] or [d] of this subsection no longer exists.

[6] Grandfathering -- Unless an extension of the approval of the plan is granted in accordance with the subdivision regulations, development conducted in accordance with a preliminary plan approved before the effective date of Council Bill 93-26 is exempt from the provisions of this subsection concerning the adequacy of the water system. If an extension of the approval of the plan is granted, the development is subject to the provisions of this subsection concerning the adequacy of the water system. If development is exempt from the provisions of this subsection concerning the adequacy of the water system, execution of public works utility agreements for such development is subject to availability of capacity in the water system at the time of application for the public works utility agreements.

(d) Roads

[1] Developments which generate more than 249 trips per day, based on the Institute of Transportation Engineers Trip Generation Manual (current edition), shall have prepared, by the subdivider, a Traffic Impact Analysis (TIA) study to determine the Level of Service (LOS) of road intersections within the study area. The Traffic Study shall conform to the requirements outlined in the Harford County TIA Guideline including:

[a] Expansion of the study area for developments which generate 1,500 or more trips per day;
or

[b] Limiting the study area to 2 miles in all directions or to the area as identified in Paragraph [3], whichever is less.

~~[2] At the request of and with justification submitted by the subdivider, the Director of Planning and Zoning, with the concurrence of the Department of Public Works, may eliminate from the Impact Study those intersections where the County staff find that there will be:~~

~~[a] Minimal impact on traffic; or~~

~~[b] Excessive distance between the first arterial road and next intersecting collector road.~~

FOH: We recommend this be eliminated. We can find no instance where generation of 249+ trips per day could be construed as minimal. Roads which are not of a minor rural collector status are so small as to be negligible in siphoning off significant vehicle trips. One should err on the side of protection of the safety of the existing community and the impact to their roads.

[3] Existing State and County roads shall be considered adequate to accommodate the traffic projected to be generated by the proposed development if:

[a] Inside the development envelope (the boundary designated as the planned growth area of Harford County as provided in the most recently adopted Land Use Element Plan)-the existing County and State roads in all directions from each point of entrance of the site through the intersection with the first arterial roadway to the next intersecting collector or higher functional classification road as defined by the Harford County Transportation Plan:

(i) Are capable of accommodating a projected Level of Service "D" or higher at the intersections as defined by the Highway Capacity Manual, Special Report 209, published by the Transportation Research Board.

[b] Outside the development envelope (the boundary designated as the planned growth area of Harford County as provided in the most recently adopted Land Use Element Plan)-the existing County and State roads in all directions from each point of entrance of the site to the first intersection of a major collector or higher functional classification road as defined by the Harford County Transportation Plan:

(i) Are capable of accommodating a projected Level of Service "C" or higher at the intersections as defined by the Highway Capacity Manual, Special Report 209, published by the Transportation Research Board.

[4] Capital projects with 100% of the construction costs allocated in the County's current year adopted capital improvement program or approved for construction in the current year State consolidated transportation program may be utilized in the traffic analysis. Necessary improvements identified in the TIA to meet the LOS standards in (D)[3] must be provided by the subdivider:

[a] If the TIA determines that the existing LOS is "E" or lower at an intersection inside the development envelope, the subdivider needs only to mitigate the portion of trips generated from the subdivision site; or

[b] If the TIA determines that the existing LOS is "D" or lower at an intersection outside the development envelope, the subdivider needs only to mitigate the portion of trips generated from the subdivision site; and

[c] If the TIA determines a subdivider is subject to mitigate its portion of trips generated from the site, then the subdivider shall construct the improvements as stipulated by the Department of Public Works. In the event that the Department of Public Works determines that the subdivider is unable to provide the improvements because of the inability to acquire the necessary rights-of-way, the physical constraints of the property, or State or Federal regulations, all of which

are beyond the control of the subdivider, then the subdivider shall deposit into an escrow account with the County 125% of the funds necessary to cover the costs of the improvements as determined by the County. Said funds shall be deposited prior to issuance of a building permit. The County shall continue to hold the money in escrow until such time as the improvements are able to be constructed. In no event, however, shall the money be retained by the County for longer than 10 years from date of deposit.

FOH: We must question allowing a project to move forward when for whatever reason, it may take 10 years or more to make improvements stipulated by the Department of Public Works. As this reads, after holding the money for 10 years, no improvements are made and no money is lost.

[5] Conditional review - if Paragraphs [3][a](i), or [b](i), of this subsection prevents approval or the extension of a previous approval of a preliminary subdivision plan or site plan, the Department of Planning and Zoning may proceed with conditional review of the plan and place it on a waiting list arranged by date of completion of the review and, for previously-approved plans, by date of the request for extension. Record plats, grading permits and public works agreements for utilities or roads shall not be executed by the County until the plan for the project is removed from the waiting list and preliminary approval or extension is granted. Removal from the waiting list shall occur only when the condition that prevented approval under Paragraphs [3][a](i), or [b](i), of this subsection no longer exists.

[6] Grandfathering - Unless an extension of the approval of the plan is granted in accordance with the Subdivision Regulations, development conducted in accordance with a preliminary plan approved before the effective date of Council Bill 94-36 is exempt from the provisions of this subsection concerning the adequacy of the roadways. If an extension of the approval of the plan is granted, the development is subject to the provisions of this subsection concerning the adequacy of the roadway system.

(3) Non-residential development - Approval of non-residential development and site plans shall be subject to findings of adequate capacity based on the standards set in this subsection, and the current and projected use levels described in the annual growth report:

(a) Sewerage.

[1] The County sewerage system shall be considered adequate if, taking into consideration demands on the system generated or projected to be generated by existing connections, buildings under construction that will be connected to the system, all committed allocations evidenced by payment of area charges and connection fees, all unexpired public works utility agreements, all preliminary plans approved after the effective date of this Subsection, and properties using individual sewerage system that are anticipated to connect to the system on completion of a capital project then under construction or for which funding has been authorized, right-of-way acquisition completed and construction plans completed:

[a] Collectors system to serve the proposed development is designed to accommodate expected ultimate peak gravity flows from the development and other developable land within the drainage area;

[b] Interceptors to serve the proposed development have sufficient available capacity to accommodate expected peak gravity flows from the development;

[c] Pumping stations and force mains, receiving flows from the collector system in the drainage/service area have sufficient available capacity to accommodate ultimate peak flows from the proposed development and other developable land within the drainage area;

[d] Pumping stations and force mains, receiving flows from interceptors to serve the proposed development, have sufficient available capacity to accommodate expected peak flow from the proposed development; and

[e] Treatment plant(s) have sufficient available capacity to accommodate expected annual average and maximum daily loadings from the proposed development.

[2] The County sewerage system shall also be considered adequate if there is compliance with [1][a] and [c] of this subsection and the County has funded projects for the improvement of the facilities necessary to comply with requirements of [1][b], [d], and [e] of this subsection.

[3] The County sewerage system shall also be considered adequate if there is compliance with [1][e] of this subsection and the developer agrees to construct the improvements to the system to meet the requirements of [1][a], [b], [c] & [d] of this Section, or the developer executes an agreement with the County for improvements to the system to meet the requirements of [1][a], [b], [c] and [d] of this subsection.

[4] If the County sewerage system is found to be inadequate, then preliminary subdivision plans, site plans, and extensions of previously approved preliminary subdivision plans shall not be approved.

[5] Conditional review - If paragraphs [1][a], [b], [c], [d] or [e] of this subsection prevents approval or the extension of a previous approval of a preliminary subdivision plan or site plan, the Department of Planning and Zoning may proceed with conditional review of the plan and place it on a waiting list arranged by date of completion of the review and, for previously approved plans, by date of the request for the extension. Record plats, grading permits and public works agreements for utilities or roads shall not be executed by the County until the plan for the project is removed from the waiting list and preliminary approval or extension of the previous approval is granted. Removal from the waiting list shall occur only when the condition that prevented approval under paragraphs [1][a], [b], [c], [d] or [e] of this subsection no longer exists.

[6] Grandfathering - The provisions of this subsection concerning the adequacy of the sewerage system shall not apply to those developments, which, as of the effective date of this act have an approved preliminary plan or site plan; except that unless an extension of the approval of the plan is granted in accordance with the subdivision regulations, development conducted in accordance with a preliminary plan or site plan approved before the effective date of Council Bill 93-26 is exempt from the provisions of this subsection concerning the adequacy of the sewerage system. If an extension of the approval of the plan is granted, the development is subject to the provisions of this subsection concerning the adequacy of the sewerage system. If development is exempt from the provisions of this subsection concerning the adequacy of the sewerage system, execution of public works utility agreements for such development is subject to availability of capacity in the sewerage system at the time of application for the public works utility agreements.

(b) Water.

[1] The County water system or community water system shall be considered adequate if, taking into consideration demands on the system generated or projected to be generated by existing connections, building under construction that will be connected to the system, all committed allocations evidenced by payment of area charges and connection fees, all unexpired public works utility agreements, all preliminary plans approved after the effective date of this subsection, and properties using individual water supply system that are anticipated to connect to the system on completion of a capital project then under construction or for which funding has been authorized, right-of-way acquisition completed and construction plans completed:

[a] The water distribution system is capable of providing the required pressures and flows during the maximum day demand and the minimum required pressures for fire flows, resulting from the proposed development, as established in the County's water and sewer design guidelines **Omitted "and plumbing code.";**

[b] Booster stations and/or transmission mains in the service area have sufficient available capacity to provide maximum day demand and minimum required pressure for fire flow to the proposed development;

[c] Storage tanks in the service area have sufficient available capacity to provide peak hour demand in addition to fire flow to the proposed development;

[d] Source and treatment facilities in the service area have sufficient available capacity to provide maximum day demand to the proposed development.

[2] The County water system or community water system shall also be considered adequate if the County or the operating entity has funded projects for the improvement of the facilities necessary to comply with the requirements of Paragraphs [1][a], [b], [c] and [d] of this subsection.

[3] The County water system or community water system shall also be considered adequate if there is compliance with [1][c] and [d] of this subsection and the developer agrees to construct the improvements to the system to meet the requirements of [1][a], [b], [c] & [d] of this Section, or the developer executes an agreement with the County or the operating entity for improvements to the system to meet the requirements of [1][a] and [b] of this subsection.

[4] If the water system serving the proposed development is found to be inadequate, then preliminary subdivision plans, site plans, and extensions of previously approved preliminary subdivision plans shall not be approved.

[5] Conditional review - If paragraphs [1][a], [b], [c] or [d] of this subsection prevents approval or the extension of a previous approval of a preliminary plan or site plan, the Department of Planning and Zoning may proceed with conditional review of the plan and place it on a waiting list arranged by date of completion of the review and, for previously approved plans, by date of the request for extension. Record plats, grading permits and public works agreements for utilities or roads shall not be executed by the County until the plan for the project is removed from the waiting list and preliminary approval or extension of the previous approval is granted. Removal from the waiting list shall occur only when the condition that prevented approval under Paragraphs [1][a], [b], [c] or [d] of this subsection no longer exists.

[6] Grandfathering - Unless an extension of the approval of the plan is granted in accordance with the subdivision regulations, development conducted in accordance with a preliminary plan or site plan approved before the effective date of Council Bill 93- 26 is exempt from the provisions of this subsection concerning the adequacy of the water system. If an extension of the approval of the plan is granted, the development is subject to the provisions of this subsection concerning the adequacy of the water system. If development is exempt from the provisions of this subsection concerning the adequacy of the water system, execution of public works utility agreements for such development is subject to availability of capacity in the water systems at the time of application for the public works utility agreements.

(c) Roads.

[1] Developments which generate more than 249 trips per day, based on the Institute of Transportation Engineers Trip Generation Manual (current edition), shall have prepared, by the subdivider, a Traffic Impact Analysis (TIA) study to determine the Level of Service (LOS) of road intersections within the study area. The traffic study shall conform to the requirements outlined in the Harford County TIA Guideline including:

[a] Expansion of the study area for developments which generate 1,500 or more trips per day; or

[b] Limiting the study area to 2 miles in all directions or to the area as identified in Paragraph [3], whichever is less.

~~[2] At the request of and with justification submitted by the subdivider, the Director of Planning and Zoning, with the concurrence of the Department of Public Works, may eliminate from the Impact Study those intersections and roadways where the County staff find that there will be:~~

~~[a] Minimal impact on traffic; or~~

~~[b] Excessive distance between the first arterial and next intersecting collector.~~

FOH: We recommend this be eliminated. We can find no instance where generation of 249+ trips per day could be construed as minimal. Roads which are not of a minor rural collector status are so small as to be negligible in siphoning off significant vehicle trips. One should err on the side of protection of the safety of the existing community and the impact to their roads.

[3] Existing State and County roads shall be considered adequate to accommodate the traffic projected to be generated by the proposed development if:

[a] Inside the development envelope the existing County and State roads in all directions from each point of entrance of the site through the intersection with the first arterial roadway to the

next intersecting collector or higher functional classification road as defined by the Harford County Transportation Plan:

(i) Are capable of accommodating a projected Level of Service "D" or higher at the intersections as defined by the Highway Capacity Manual, Special Report 209, published by the Transportation Research Board.

[b] Outside the development envelope-the existing County and State roads in all directions from each point of entrance of the site to the first intersection of a major collector or higher functional classification road as defined by the Harford County Transportation Plan:

(i) Are capable of accommodating a projected Level of Service "C" or higher at the intersections as defined by the Highway Capacity Manual, Special Report 209, published by the Transportation Research Board.

[4] Capital projects with 100% of the construction costs allocated in the County's current year adopted capital improvement program or approved for construction in the current year State consolidated transportation program may be utilized in the traffic analysis. Necessary improvements identified in the TIA to meet the LOS standards in (c)[3] must be provided by the subdivider:

[a] If the TIA determines that the existing LOS is "E" or lower at an intersection inside the development envelope, the subdivider needs only to mitigate the portion of trips generated from the subdivision site; or

[b] If the TIA determines that the existing LOS is "D" or lower at an intersection outside the development envelope, the subdivider needs only to mitigate the portion of trips generated from the subdivision site; and

[c] If the TIA determines a subdivider is subject to mitigate its portion of trips generated from the site, then the subdivider shall construct the improvements as stipulated by the Department of Public Works. In the event that the Department of Public Works determines that the subdivider is unable to provide the improvements because of the inability to acquire the necessary rights-of-way, the physical constraints of the property, or State or Federal regulations, all of which are beyond the control of the subdivider, then the subdivider shall deposit into an escrow account with the County 125% of the funds necessary to cover the costs of the improvements as determined by the County. Said funds shall be deposited prior to issuance of a building permit. The County shall continue to hold the money in escrow until such time as the improvements are able to be constructed. In no event, however, shall the money be retained by the County for longer than 10 years from date of deposit.

FOH: We must question allowing a project to move forward when for whatever reason, it may take 10 years or more to make improvements stipulated by the Department of Public Works. As this reads, after holding the money for 10 years, no improvements are made and no money is lost.

[5] Conditional review - If Paragraphs [3][a](i), or [b](i), of this subsection prevents approval or the extension of a previous approval of a preliminary subdivision plan or site plan, the Department of Planning and Zoning may proceed with conditional review of the plan and place it on a waiting list arranged by date of completion of the review and, for previously-approved plans, by date of the request for extension. Record plats, grading permits and public works agreements for utilities or roads shall not be executed by the County until the plan for the project is removed from the waiting list and preliminary approval or extension is granted. Removal from the waiting list shall occur only when the condition that prevented approval under Paragraphs [3][a](i), or [b](i), of this subsection no longer exists.

[6] Grandfathering - Unless an extension of the approval of the plan is granted in accordance with the subdivision regulations, development conducted in accordance with a preliminary plan approved before the effective date of Council Bill 94-36 is exempt from the provisions of this subsection concerning the adequacy of the roadways. If an extension of the approval of the plan is granted, the development is subject to the provisions of this subsection concerning the adequacy of the roadway system.

[7] Projects located within the Rte. 40 CRD developments which have their primary access directly onto U.S. Route 40 and do not generate more than 1,500 trips per day, based on the ITE Manual, shall not be required to submit a traffic impact analysis. Projects that generate more 1,500 trips must have a traffic impact analysis prepared and comply with all standards of this Section.

C. Appeal -- Notwithstanding anything to the contrary contained in this chapter or in the Harford County Subdivision Regulations, it is hereby determined that nothing contained in this Section shall be subject to a variance, special exception, or an appeal to the hearing examiner or Board of Appeals. An aggrieved party may appeal to the Director of Administration in accordance with established procedures.

D. The provisions of this Section pertaining to adequate water and sewer facilities shall apply to the Harford County sanitary district and all sanitary subdistricts.

E. Compliance with the Harford County Department of Public Works Water and Sewer Rules and Regulations addressing adequate capacity is required prior to execution of any public works agreement and/or issuance of any building permit.

F. A developer shall not avoid the intent of this Section by submitting piecemeal applications for preliminary or site plan approvals. This Section applies when a parcel of land, as described in the land records of Harford County on the effective date of this Council Bill 93-23 is developed for non-residential use or a cumulative total of 6 residential dwelling units/lots or more is created from the parcel. However, a developer may seek approval of only a portion of the subdivision or development, provided that the impact of all previously-approved preliminary or site plans from that development shall be considered during the adequate public facilities review of each subsequent portion of the development.