



Bill No. 22-17
Concerning: Amend the Adequate
Public Facilities Ordinance
Introduced: September 6, 2022
Revised: _____ Draft No. _____
Enacted: _____
Effective: _____
Expires: December 5, 2022
Frederick County Code, Chapter 1-20
Section(s) various

COUNTY COUNCIL FOR FREDERICK COUNTY, MARYLAND

By: Council Members Steve McKay and Kai Hagen

AN ACT to: Amend the Adequate Public Facilities Ordinance by strengthening traffic mitigation standards, increasing the requirements to be considered a “limited impact development,” revising aspects of the Planning Commission’s approval authority, revising approval time periods, and removing or revising out of date language.

Date Council Approved: _____ Date Transmitted to Executive: _____

Executive: _____ Date Received: _____

Approved: _____ Date: _____

Vetoed: _____ Date: _____

Date returned to Council by County _____ Executive with no action: _____

By amending:

Frederick County Code, Chapter, 1-20 Section(s) various

Other: _____

Boldface

Underlining

~~[Single boldface brackets with strikethrough]~~ Deleted from existing law by original bill.

* * *

Heading or defined term.

Added to existing law by original bill.

Existing law unaffected by bill.

Bill No. 22-17

The County Council of Frederick County, Maryland, finds it necessary and proper to amend the Adequate Public Facilities Ordinance, by strengthening traffic mitigation standards, increasing the requirements to be considered a “limited impact development,” revising aspects of the Planning Commission’s approval authority, revising approval time periods, and removing or revising out of date language.

NOW, THEREFORE, BE IT ENACTED, BY THE COUNTY COUNCIL OF FREDERICK COUNTY, MARYLAND that the Frederick County Code be, and it is hereby, amended as shown on the attached Exhibit 1.

M.C. Keegan-Ayer, President
County Council of Frederick County,
Maryland

§ 1-20. ADEQUATE PUBLIC FACILITIES.

...

§ 1-20-5. DEFINITIONS.

...

(B) In this chapter, the following terms are used as defined unless otherwise apparent from the context.

...

~~[COMMUNITY DEVELOPMENT DIVISION (CDD). The Frederick County Community Development Division (abbreviated as CDD).]~~

...

DIVISION. The Frederick County Division of Planning and Permitting, and any successor to this Division.

...

LEVEL OF SERVICE (LOS). A standardized index of relative service provided by a transportation network element ranging from "A" to "F" with "A" representing free, unobstructed flow and "F" representing a forced flow beyond the capacity of the transportation network element, or in the case of intersections a measurement of delay where "A" represents the least delay and "F" the most, as defined in the "Highway Capacity Manual" published by the Transportation Research Board.

LIMITED IMPACT DEVELOPMENT. A development that is projected (by the approved TIA) to lower the level of service (LOS) of a roadway by not more than 30% of one LOS and does not result in an LOS of "E" or "F".

...

MORATORIUM. A moratorium or other legislation adopted by the county preventing the recordation of plats or halting a development because of inadequate school, road, water or sewer capacity.

...

SCHOOL CONSTRUCTION FEE. A monetary fee, calculated as provided in § 1-20-62(E)[, which the developer may elect to pay to satisfy all or a portion of the school adequacy provisions of § 1-20-61 of this chapter].

...

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TRAFFIC IMPACT ANALYSIS (TIA). A report which assesses the traffic impact of a development proposal for testing road adequacy.

...

§ 1-20-7. EXEMPTIONS.

(A) Minor residential subdivisions and public safety facilities are not subject to the requirements of this chapter. Except as specifically provided in this section, all other applications for development, whether for county or municipal facilities, or private sector projects, are required to obtain APFO approval.

(B) The first 5 lots from an original parcel created by resubdivisions occurring after December 1, 1991.

~~[(C) Any existing preliminary subdivision plat approved prior to December 1, 1991 shall be exempt from the requirements of this chapter for the following time periods as long as the preliminary approval remains valid:~~

~~—(1) Residential development with valid preliminary approval:~~

~~— 6-100 units — 3 years from December 1, 1991~~

~~— 101-500 units — 5 years from December 1, 1991~~

~~— 501 + units — 10 years from December 1, 1991~~

~~—(2) Nonresidential development with valid preliminary approval:~~

~~— 0-50 acres — 3 years from December 1, 1991~~

~~— 51-200 acres — 5 years from December 1, 1991~~

~~— 201 + acres — 10 years from December 1, 1991~~

~~—(3) All plats having preliminary approval and seeking extensions of approval must comply with subdivision regulations.~~

~~—(D) Any existing PUD with preliminary plat (Phase III) approval prior to the effective date of this chapter shall be exempt from the requirements of this chapter for the following time periods as long as the preliminary plat (Phase III) approval remains valid:~~

~~— 6-100 units — 3 years from December 1, 1991~~

~~— 101-500 units — 5 years from December 1, 1991~~

~~— 501 + units — 10 years from December 1, 1991]~~

~~[(E)C] Developments that meet the requirements of this chapter at the time of preliminary subdivision approval do not have to comply with the provisions of this chapter at the time of site plan approval.~~

~~[(F)D] Any project which qualifies as “housing for older persons” defined in § 1-20-5 hereof, and which meets the following criteria shall be exempt from the school[s] adequacy requirements of this chapter.~~

...

§ 1-20-8. APPROVAL OF SUBDIVISIONS, SITE PLANS.

(A) All major residential subdivisions, major and minor commercial/industrial subdivisions, site plans, Planned Unit Development (PUD) and Mixed Use Development (MXD) Phase II plans, and revised subdivision, PUD and MXD Phase II or site plans resulting in an increase in density or intensity of use, received for approval, reapproval or extension by the Planning Commission shall meet the requirements set forth herein prior to preliminary plan[t] or site plan approval except as provided for in § 1-20-7.

(B) Subdivision plats or site plans that do not meet the requirements for adequate public facilities in Articles III-VI herein shall not be granted preliminary subdivision or site plan

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approval by the Planning Commission. A conditional approval as allowed for in § 1-20-10 may be granted, provided no final approval shall be granted or lots recorded until the conditions set forth in the conditional approval have been satisfied.

(C) Prior to the signing of a preliminary plan~~[t,]~~ or site plan~~[or Phase II plan]~~, an adequate public facilities letter of understanding shall be ~~[forwarded to]~~ agreed to and signed by the Planning Commission and [to]the developer.

(D) Approval of adequate public facilities as set forth in this chapter shall be valid from the date of the meeting at which approval of the preliminary subdivision or site plan approval is first granted by the Planning Commission for the following time period as long as the preliminary plan or site plan approval remains valid.

(1) Residential subdivisions.

6-50 units	3 years
51-100 units	4 years
101-250 units	6 years
251-500 units	8 years
501 [-750] + units	10 years
[751-1,000 units]	11 years
1,001-1,250 units]	12 years
1,251-1,500 units]	13 years
1,501-1,750 units]	14 years
1,751 + units]	15 years]

(2) Nonresidential subdivisions (**BUILDING SQUARE FOOTAGE**).

<u>0-230,000 square feet</u>	<u>5 years</u>
<u>230,001-560,000 square feet</u>	<u>6 years</u>
<u>560,001-1,100,000 square feet</u>	<u>8 years</u>
<u>1,100,001 + square feet</u>	<u>10 years</u>

~~[Three years, plus one year per every complete 750 daily trip increment generated during the peak day of the site, up to a maximum of 15 years.]~~

(3) Nonresidential Site plans. For as long as the site plan approval remains valid.

(4) At the request of the developer, for residential subdivisions with 50 or fewer dwelling units, the Planning Commission may ~~[approve a preliminary plan, Phase II plan, or site plan]~~ grant APFO approval for a time period ~~[more or]~~ less than that shown above, when the ~~[increased or]~~ decreased approval period can be justified by the developer.

(5) If a developer is seeking concurrent subdivision and site plan approval, the APFO testing shall be required as part of the subdivision approval. Notes shall be placed on both documents specifying approved use(s).

(E) At the request of, and upon submission of adequate justification by, the developer, the Planning Commission ~~[shall]~~ may extend the approval of adequate public facilities beyond the time frame provided in division (D) above if the Commission finds:

(1) All conditions of approval are being met; and

(2) All unrecorded lots or unbuilt site plan structures meet the requirements for adequate school, road, water and sewerage capacity; or capacity is vested for improvements constructed for roads (§ 1-20-31(F), water (§ 1-20-41(E)), or sewer (§ 1-20-51(E)).

(F) The Planning Commission may grant APFO approval for time frames beyond those specified in division (D) if preexisting conditions of rezoning or other required phasing limitations, such as those provided in subsections (L) and (M) below~~[\$ 1-20-9]~~, warrant such action.

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(G) If the preliminary plan~~[t]~~ or site plan approval expires or is voided prior to the recording of all lots, the unrecorded lots or in the case of site plans, unconstructed portion of the development, shall meet the requirements of this chapter prior to again obtaining preliminary subdivision or site plan approval.

(H) A developer seeking preliminary subdivision or site plan approval of a development must comply with the county subdivision regulations and zoning ordinance.

(I) Prior to recordation of final plats all Health Department and county requirements must be met.

(J) For all developments which were exempt from this chapter or for which APFO approval was granted, the subdivision lots must be recorded, or where no subdivision is required, substantial construction pursuant to the site plan must be commenced in order to remain exempt from future APFO testing.

(K) (1) The developer may request that the time of approval for adequate public facilities for a development be extended if a moratorium has been imposed.

(2) The Planning Commission shall grant the extension if the developer establishes each of the following:

(a) The county imposed a moratorium;

(b) The development had APFO approval at the time the moratorium was imposed;

(c) The ~~D[d]~~ivision of Water and Sewer U[u]tilities ~~[and solid waste management]~~ certifies that water and sewer capacity is adequate to serve the development or such portion as required.

(3) The duration of the extension of the time of the APFO approval shall be the longer of:

(a) The length of time remaining for the APFO approval at the time the moratorium was imposed; or

(b) One year.

(4) Retesting of public facilities, other than water or sewer facilities, shall not be required.

(5) The developer must make this request within six months after the moratorium expires.

§ 1-20-9. ~~RESERVED. [APPROVAL OF MIXED USE DEVELOPMENTS (MXDS) AND PLANNED UNIT DEVELOPMENTS (PUDS)].~~

~~—(A) All MXD plans, PUD Phase II plans, or amended Phase II plans resulting in an increase in density or intensity of use, shall meet the requirements of this chapter prior to MXD plan or PUD Phase II plan approval or reapproval.]~~

(L) A phasing plan indicating the density and rate of development in accordance with the availability of adequate public facilities ~~may~~shall also be approved as part of the MXD plan or PUD Phase II approval or reapproval.

~~(B)M~~ All PUDs with existing Phase II approval as of December 1, 1991, will be required to~~shall~~ meet the requirements of this chapter prior to preliminary plan~~[t]~~ or site plan approval or reapproval. A phasing plan indicating the density and rate of development in accordance with the availability of adequate public facilities shall also be approved as part of the preliminary plan~~[t]~~ or site plan approval.

(N) For all developments which include a combination of residential and nonresidential uses, the duration of the adequate public facilities approval shall be the longer of the time periods found in subsections (D)(1) and (D)(2), as applicable.

~~[(C) MXD or PUD Phase II preliminary plans or site plans that do not meet the requirements for adequate public facilities in Articles III-VI herein, shall not be approved except as a conditional approval as allowed for in § 1-20-10 (A) or (B). Final plat approval may be granted and lots recorded as the conditions set forth in the conditional approval are met.~~

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- ~~—(D) Prior to the signing of the Phase II, or preliminary plat, an adequate public facilities letter of understanding shall be forwarded by the Planning Commission to the developer.~~
- ~~—(E) Approval of adequate public facilities for PUDs shall be valid for the length of time of the original Phase II plan approval. The preliminary plan APFO approval shall be based on the number of units approved on the Phase II plan. MXD approval time shall be based upon the number of units and size (acreage) of the preliminary plan.~~
- ~~—(F) If the Phase II or preliminary plat approval expires or is voided, then the unrecorded portion of the development shall meet the requirements of this chapter prior to again obtaining Phase II or preliminary plat approval.~~
- ~~—(G) All MXD or PUD developments seeking Phase II, preliminary subdivision or site plan approval must comply with the county subdivision regulations and zoning ordinance.~~
- ~~—(H) Prior to recordation of final plats all Health Department and Department of Public Works requirements must be met.]~~

§ 1-20-10. CONDITIONAL APPROVAL.

(A) Conditional site plan, or preliminary plan~~[t]~~, approval may be granted to a development that does not have adequate public facilities at the time of Planning Commission consideration, provided that the developer agrees to provide the necessary improvements to make the facility adequate as allowed for in § 1-20-11. If the developer improvements will not result in adequate capacity, conditional approval shall not be granted, and preliminary plan~~[t]~~ and site plan approval shall be denied.

(B) If any conditions of a Phase II or preliminary plat approval have not been met, ~~[-then]~~ approval shall not be granted to a final subdivision plat.

(C) If conditional site plan approval has been granted, a building permit shall not be issued until the conditions have been satisfied~~[-or]~~ and the public facilities have been determined to be adequate.

§ 1-20-11. DEVELOPER OPTION.

A developer shall have the option to: (1) provide the public facility improvements necessary to support the proposed development and to ensure adequacy of public facilities set forth in this chapter; or (2) wait for public facilities to become adequate by improvements made pursuant to the CIP or other sources. A county, state or municipal agency may participate in the improvements.

§ 1-20-12. ESCROW ACCOUNTS FOR CONTRIBUTIONS TO ROAD IMPROVEMENTS FOR LIMITED IMPACT DEVELOPMENTS.

(A) In lieu of either providing the public facility improvements or waiting for public facilities to become adequate as provided in § 1-20-11, the developer of a ~~[""]~~limited impact development~~["" (as defined below)]~~ shall have the option of contributing money to an escrow account as set forth in this section, provided the Planning Commission determines that the developer has fulfilled each of the requirements of this section for such contribution.

(B) The amount of money the developer shall be required to place in the escrow account (whether the escrow account is established or to be established) for its limited impact development shall be the proportionate share of the costs attributable to that limited impact development of making the road improvements required to satisfy the roads adequacy requirements in § 1-20-31 for that limited impact development. This proportionate share shall be based on an equitable allocation of traffic trips in the peak hour, and in the critical direction or movement, that the proposed limited impact development is estimated to cause, when measured

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against and accounting for the additional capacity that the proposed road improvement will create. In arriving at the equitable allocation for that limited impact development, the Planning Commission shall consider the traffic impact of the limited impact development as it relates to the entire road improvement being proposed. The Planning Commission shall determine the equitable allocation based on the procedures outlined in the Guidelines.

(C) The limited impact development applicant may request that the proposed road improvement be designed or re-designed to create more new capacity than that which is required for that limited impact development to satisfy the adequacy requirements in § 1-20-31, if the Planning Commission determines that the road link or intersection to be improved by the road improvement will require greater improvement to accommodate other additional future development in the area consistent with the County Comprehensive Plan.

(D) Once a road improvement is approved for a particular road link or intersection and an escrow account is established, subsequent development applications for limited impact developments shall either: (i) contribute its equitable allocation of the approved road improvement to that escrow account, until such time that the account is closed by the county; or (ii) build the approved road improvement.

(E) The Planning Commission shall approve the escrow account contribution request for a limited impact development if the Planning Commission determines (based on the approved TIA and the Guidelines) that it would not be equitable to impose the entire cost of the required road improvements on that limited impact development because it would not have a substantial adverse impact on traffic.

(F) The Planning Commission may approve a fee-in-lieu ~~[payment]~~escrow account contribution request, as determined by the state or county, which shall not be subject to proportionate share requirements, if the constructed improvements necessary to establish adequacy are practically infeasible due to circumstances beyond the control of the applicant but which may be feasible if constructed as a public ~~[project or by others.]~~or a public-developer partnership project. The applicant shall provide justification for the request and the proposed fee-in-lieu payment shall be consistent with the scope of the project, but not less than 5 percent of the estimated cost of the improvements.

(G) ~~[A limited impact development is a development that is projected (by the approved TIA) to lower the level of service of a roadway by no more than 50% of one level of service. However, for a limited impact development which will impact a roadway by between 25% and 50% of one level of service, the]~~The Planning Commission may disapprove the escrow account contribution request for a limited impact development which will impact a roadway by between 15% and 30% of one level of service, if the Planning Commission determines that 50% or more of the escrow account funds, including the limited impact development applicant's proportionate share, have been accumulated in an escrow account for that road improvement. In determining whether a development has a limited impact, the Planning Commission shall consider the general requirement in § 1-20-6(B) that the developer not avoid the intent of this chapter by submitting piecemeal applications and may deny an escrow request for a piecemeal application.

(H) Once an escrow account is established, any non-exempt developer generating more than 5 trips during the peak hour of the adjacent street, as defined in § 1-20-5, having an impact on the road improvement project shall be required to pay its proportionate share into the escrow account or, if applicable, make the road improvements as provided in § 1-20-11 to gain adequate public facilities approval to allow development to proceed.

(I) The escrow account shall be maintained by the county in an interest bearing account and shall be used solely for road improvements benefitting the property as determined by the county. While in most cases the escrow payments will be explicitly allocated to specific improvements at

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certain locations, escrow funds may be reallocated for any transportation improvements within the same link or intersection, as outlined in the Guidelines, so long as the transportation improvements provide an identifiable benefit to the roadway links or intersections affected by that development. If, after 10 years from the date of the first escrow account contribution, the county determines that there is no reasonable probability of implementing the transportation improvements described above in the next 6 years, the escrow account may be closed. The funds in the escrow account may be transferred to another escrow account within the same planning region, at the discretion of the Planning Commission, for the purpose of constructing other unbuilt escrow account projects. If the money paid into an escrow account for road improvements exceeds actual costs, the applicant may seek a refund. Any application for refund must be filed with the Director of Finance within 1 year of the time at which the funds become available for refund.

(J) If the Planning Commission approves an escrow fund for road improvements under this section and the development meets all other requirements under this chapter, then the Planning Commission shall grant APFO approval to the development~~[-conditional site plan, preliminary plat or Phase II plan approval].~~

...

§ 1-20-20. ADMINISTRATIVE AGENCY /DETERMINATION OF ADEQUACY.

(A) The Adequate Public Facilities Ordinance shall be administered by the ~~[Community Development Division (CDD)]~~Division. All applications, maps, and documents related~~[ive]~~ to ~~[subdivision, PUD, MXD, PDR, or PDE Phase II or site plan approval and subject to]~~ the provisions of this chapter shall be submitted to ~~[CDD]~~the Division which will review all information and present the relevant information and its recommendations to the Planning Commission.

(B) Final determination of adequacy shall be the responsibility of the Planning Commission.

§ 1-20-21. REFERRAL TO OTHER AGENCIES/PUBLIC COMMENT.

(A) The Division~~[-CDD]~~ may refer the subdivision, site ~~[and]~~development, and PUD and MXD Phase II plans to any county agency or any other agency it deems appropriate for its review, comments and/or recommendations pertaining to the adequacy of public facilities, and these recommendations shall be considered by the Planning Commission in making its decision. Where a development impacts municipal facilities, that municipality shall be referred a copy of the ~~[Phase II,]~~ subdivision ~~[,]~~ or site ~~[or]~~development plan for review and comment.

...

§ 1-20-23. AMENDMENTS.

(A) The county governing body may amend the provisions of this chapter through its legislative process if ~~[the county governing body determines that any such]~~the amendment will be in the best interest of the citizens of the county and consistent with the general intent of this chapter.~~[Proposals for an amendment may be initiated by resolution by the county governing body.]~~

(B) The [P]proposed legislation~~[amendments]~~ shall be ~~[filed with CDD and]~~referred to the Division and all municipalities within the county having adequate public facility ordinances for

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review and comment. The comments received from the municipalities shall be referred to the Planning Commission, County Executive and County Council for ~~their~~ consideration.

(C) The Planning Commission shall hold a public hearing on the proposed legislation~~[amendments]~~ and shall submit its recommendations ~~[or proposals]~~ to the County Executive and County Council as soon as practicable after the public hearing. ~~[within 32 days of the public hearing.]~~

(D) The County Council shall hold a public hearing on the proposed legislation~~[amendments]~~ and shall render a decision ~~[within 60 days of]~~ after the public hearing.

~~(E)~~(E) Notice of the time and place of the Planning Commission and initial County Council public hearing, together with a summary of the proposed amendment, shall be published in at least 1 newspaper of general circulation in the county once each week for 2 successive weeks, with the first such publication of notice appearing at least 14 days prior to the hearing.

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ARTICLE III: ROADS

Section

1-20-30 Thresholds

1-20-31 Determination of adequacy

§ 1-20-30. THRESHOLDS.

(A) Except where an APFO escrow account (§ 1-20-12 (H)) has already been established, this article does not apply to developments which are expected to generate 50 or less total vehicle trips during the highest daily peak hour of the adjacent street traffic, as defined by the most recent edition of the Institute of Transportation Engineers (ITE) "Trip Generation Manual," or the Frederick County Guidelines for the use category determined by the ~~[county]~~Division. Site generated trips are the sum of all peak hour traffic trips in and out of the proposed site.

(B) In determining whether a proposed development exceeds the thresholds described in § 1-20-30(A), all land at one location within the county under common ownership or control by a developer shall be included. A developer shall not purposefully avoid the intent of this section by submitting piecemeal applications for ~~[Phase II plans,]~~ preliminary plan~~[t]~~s or site plans. However, a developer may seek approval of only a portion of a subdivision or development, even if the site would generate less trips than the thresholds in this section, provided that upon seeking approval of the remaining subdivision or development which generates trips greater than the thresholds, including that approved previously under this subsection, the development shall comply with the requirements of this section.

§ 1-20-31. DETERMINATION OF ADEQUACY.

(A) ~~[For]~~If a development application~~s~~ meets~~ing~~ or exceeds~~ing~~ the thresholds outlined in § 1-20-30, a traffic impact analysis (TIA) shall be prepared, and the Planning Commission shall determine if the road adequacy requirements of this chapter have been or will be met.~~[and a finding of adequacy shall be determined by the Planning Commission.]~~ The portion of existing road(s) required to be adequate shall be determined by the ~~[county]~~Division, based on the completed and signed Notice of Intent to Develop (NID), as required in the G~~[g]~~uidelines, and either a pre-study conference or documented correspondence between the county and the developer. The ~~[county]~~Division shall use the G~~[g]~~uidelines to adopt a reasonable study area based on sound traffic engineering knowledge of the site and the surrounding area. Upon finalization of the study area or scope, the Division shall make this documentation available to

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the public on the county website. Any disputes regarding study area or scope, whether raised prior to or after the adoption of a study area, shall be resolved by the Planning Commission.

(1) All freeway and expressway mainlines and the uninterrupted flow portion of ramps shall be exempt from the requirements herein.

(2) All other roads and intersections in the county shall be subject to the requirements herein.

(B) Review of the TIA shall be the responsibility of the Division or its designee. The Division will determine if the TIA adequately and accurately examines the existing roads and intersections within the identified study area or scope and determine if the TIA meets the provisions of this chapter, the Guidelines, and the policies of the Division. Upon acceptance of the TIA, the Division shall provide the completed documentation to the Planning Commission and make a copy available to the public on the county website.

~~(B)C~~ The TIA shall be prepared for the design hours, which are defined as the peak hours which will be most affected by the proposed development; i.e., any combination of a.m., mid-day, p.m., evening, weekend peak hour of the adjacent street, or peak hour of the generation by the land use as determined by the ~~county~~ Division. The TIA shall include, but not be limited to:

(1) Vehicle trip generation by the proposed development and traffic expected to be generated by approved development in the study area as outlined in the G~~g~~uidelines and as determined by the ~~county~~ Division. The latest edition of the ITE "Trip Generation Manual" shall be used unless specifically applicable rates are identified in or permitted by the G~~g~~uidelines;

(2) LOS capacity analysis of all required roadway corridors, intersections and links for existing conditions and specified intermediate and future conditions with and without the proposed development as delineated in the G~~g~~uidelines;

(3) In cases where traffic safety is identified as an issue by the ~~e~~ County, Sheriff's Office, or Maryland Department of Transportation State Highway Administration (MDOT SHA), reported traffic crashes for the last 3 years for which data is available;

(4) Transportation improvements currently fully funded for construction in the most recent CIP or CTP by or before the year of expected completion of the project or project phase, assuming the project buildout criteria in § 1-20-8;

(5) Other improvements approved and permitted by the county, state or a municipality, or under construction, with a certification by that agency that construction is likely to be completed concurrent with the opening of the development project; and

(6) Any other information that may reasonably be required by the ~~county~~ Division to effectively evaluate the road network or application.

~~(C)D~~ All TIAs shall use the analysis procedures and methodologies set forth in the G~~g~~uidelines.

~~(D)E~~ Using methodologies specified in the G~~g~~uidelines, the following level of service criteria shall be met to determine road adequacy.

~~—(1) Signalized intersections and roundabouts located within designated growth boundaries in the County Comprehensive Plan shall be considered adequate if a LOS "E" or better is maintained. Signalized intersections and roundabouts located outside of these areas shall be considered adequate if a LOS "D" or better is maintained.~~

~~—(2) All other roadways links, unsignalized intersections and corridors when required by the county, based on sound traffic engineering principles, shall be determined to be acceptable if a LOS "E" or better is maintained or mitigation is provided in accordance with the guidelines.]~~

(1) For developments which are expected to generate greater than 100 total vehicle trips during the highest daily peak hour of the adjacent street traffic, then

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(a) Signalized intersections and roundabouts will be considered adequate if a LOS "D" or better is maintained.

(b) All other roadway links, unsignalized intersections and corridors, when required by the Division, based on sound traffic engineering principles, will be considered adequate if a LOS "D" or better is maintained, or mitigation is provided in accordance with the Guidelines.

(2) For developments which are expected to generate 100 or fewer total vehicle trips during the highest daily peak hour of the adjacent street traffic, then

(a) Signalized intersections and roundabouts located within designated growth boundaries in the County Comprehensive Plan will be considered adequate if a LOS "E" or better is maintained.

(b) Signalized Intersections and roundabouts located outside of these growth areas shall be considered adequate if a LOS "D" or better is maintained.

(c) All other roadway and ramp links, unsignalized intersections and corridors when required by the Division, based on sound traffic engineering principles, shall be determined to be acceptable if a LOS "D" or better is maintained or mitigation is provided in accordance with the Guidelines.

(3) Upon sufficient justification by the applicant, the Planning Commission may modify the mitigation standard specified in paragraph (1) above, and apply the standard specified in paragraph (2). In making such decision, the Planning Commission must determine that the following criteria have been met:

(a) Regularly scheduled public transportation is available in the immediate area impacted by the proposed development; and

(b) The proposed location of the development is within designated growth boundaries in the County Comprehensive Plan.

~~(3)~~4) For land uses resulting in seasonal or irregularly scheduled special events or activities, which will generate relatively large amounts of traffic, generally not impacting the peak hour of the adjacent streets, adequacy may be determined by review of a traffic management plan (TMP), if required by the [eounty]Division. The projected number of vehicle trips for each special event, the classification and character of the roads which will be utilized to transport vehicles to and from the event, and the number of days per year the event will be held, shall be considered. The TMP shall be in accordance with the G[g]uidelines and supplement the specific standards set forth in subsections (B) and (C) above, as determined by the Planning Commission. In the event the facility would also contain permanent regular uses, in addition to special events, the regular peak period uses of the facility must be reviewed and comply with all parts of this article.

~~(E)~~F) Master plan bicycle and/or pedestrian facilities, as well as any sidewalks, shall be constructed or improved if these facilities are either non-existent or deemed inadequate by the Division. The Planning Commission may approve a fee-in-lieu of an improvement if justified by the Developer.

~~(G)~~E) If the road facilities are determined to be inadequate to accommodate the traffic flow projected by the TIA, the preliminary plan[-Phase II] or site plan approval shall be denied, except as provided for in § 1-20-10.

~~(H)~~F) Transportation facilities necessary to mitigate inadequacies shall be determined by the Planning Commission after reviewing the entire record, including the TIA, TMP, safety considerations, sight distance, horizontal curvature, vertical grades, roadway section, structural adequacy of roads and bridges, bike and pedestrian needs, and MDOT SHA[Maryland State Highway Administration] comments; and improvements, when justified to support or

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~~[Single boldface brackets with strikethrough]~~ indicates matter deleted from existing law.

*** - indicates existing law unaffected by bill.

complement the development, or mitigate its impacts, may be provided by the developer as prescribed in § 1-20-12.

(~~I~~G) A development shall be responsible only for the construction of roadway improvements that mitigate those trips that will be generated by the development.

(~~J~~H) If the development provides full mitigation (construction or fair share contribution to escrow accounts as required under the LOU or DRRA) of APFO road improvements for a development within the APFO approval period, the APFO road approval shall be vested for the capacity created by the improvements and shall not be subject to further APFO roadway testing unless there is an increase in site trips or a significant redistribution of site traffic because of a change in land use or increase in site density, as defined in the G~~g~~uidelines.

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