



Committee PHED

Staff: Glenn Orlin, Senior Analyst; Pam Dunn, Senior Legislative Analyst, Robert H. Drummer, Senior Legislative Attorney

Purpose: Final action – vote expected

Keywords: #ValidityPeriod, Subdivision Staging Policy, SSP

SUBJECT

Bill 37-20, Subdivision – Preliminary Plan - Adequate Public Facilities – Amendments
Lead Sponsor: Council President at the request of the Planning Board

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

The PHED Committee amended the Bill to limit the new school adequacy determination to situations where the unbuilt units generate more than 10 students at any school serving the development.

DESCRIPTION/ISSUE

Bill 37-20 would authorize the Planning Board to make a new adequate public facilities determination for school adequacy for the remaining unbuilt units under the school test in effect at the time of Board review when an applicant requests an extension of an adequate public facilities determination. The new determination would be done if the unbuilt units generate more than 10 students at any school serving the development.

SUMMARY OF KEY DISCUSSION POINTS

The Council’s straw votes reflect approval of the Bill as amended by the PHED Committee. The effective date of the SSP is January 1, 2021. In order to be consistent, Bill 37-20 must be converted to an expedited bill.

This report contains:

Staff memo	1
Bill 37-20	©1

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M E M O R A N D U M

November 13, 2020

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney
Pamela Dunn, Senior Legislative Analyst

SUBJECT: Bill 37-20, Subdivision – Preliminary Plan - Adequate Public Facilities –
Amendments

PURPOSE: Action – roll call vote expected

Bill 37-20, Adequate Public Facilities – Validity Period Extensions – Amendments, sponsored by Lead Sponsor Council President at the request of the Planning Board, was introduced on July 29, 2020. A public hearing was held on September 15 and various worksessions were held.¹

Bill 37-20 would authorize the Planning Board to make a new adequate public facilities determination for school adequacy for the remaining unbuilt units under the school test in effect at the time of Board review when an applicant requests an extension of an adequate public facilities determination. The new determination would be done if the unbuilt units generate more than 10 students at any school serving the development.

The Council’s straw votes indicate that the Subdivision Staging Policy (SSP) would take effect on January 1, 2021. In order to make Bill 37-20 consistent with the SSP, the Bill would need to be amended to be an expedited bill.

This packet contains:
Bill 37-20

Circle #
1

¹#ValidityPeriod, Subdivision Staging Policy, SSP

Expedited Bill No. 37-20
Concerning: Subdivision – Preliminary
Plan – Adequate Public Facilities –
Amendments
Revised: 11/13/2020 Draft No. 4
Introduced: July 29, 2020
Expires: January 29, 2022
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the request of the Planning Board

AN EXPEDITED ACT to:

- (1) [[require an applicant]] authorize the Planning Board, when reviewing an application for an extension of the validity period of an adequate public facilities determination, to [[provide]] require an updated determination of school adequacy for the remaining unbuilt units; and
- (2) generally amend the law governing a determination of adequate public facilities

By amending
Montgomery County Code
Chapter 50, Subdivision of Land
Division 50.4, Section 4.3

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Division 50.4, Section 4.3 is amended as follows:**

2 **4.3. Technical Review**

3 * * *

4 J. *Adequate Public Facilities Ordinance (APFO).*

5 * * *

6 7. *Extensions.*

7 a. *Application.* Only the Board may extend the validity
8 period for a determination of adequate public facilities;
9 however, a request to amend any validity period phasing
10 schedule may be approved by the Director if the length of
11 the total validity period is not extended.

12 * * *

13 iii. For each extension of an adequate public facilities
14 determination:

15 (a) the applicant must not propose any additional
16 development above the amount approved in
17 the original determination;

18 (b) the Board must not require any additional
19 public improvements or other conditions
20 beyond those required for the original
21 preliminary plan;

22 (c) the Board may require the applicant to submit
23 a traffic study to demonstrate how the
24 extension would not be adverse to the public
25 interest;[and]

26 (d) an application may be made to extend an
27 adequate public facilities period for a lot

28 within a subdivision covered by a previous
29 adequate public facilities determination if the
30 applicant provides sufficient evidence for the
31 Board to determine the amount of previously
32 approved development attributed to the lot[.];
33 and

34 (e) if the remaining unbuilt units would generate
35 more than 10 students at any school serving
36 the development, the [[applicant]] Board
37 must [[provide]] make a new adequate public
38 facilities determination for school adequacy
39 for the remaining unbuilt units under the
40 school test in effect at the time of Board
41 review.

42 * * *

43 g. If a new adequate public facilities determination is
44 required under this Subsection, the procedures in Chapter
45 8, Section 8-32 apply.

46 **Sec. 2. Expedited Effective Date, Transition.**

47 The Council declares that this legislation is necessary for the immediate
48 protection of the public interest. This Act takes effect on January 1, 2021. The
49 amendments made in Section 1 must apply to any requests to extend the validity
50 period for a determination of adequate public facilities received by the Planning
51 Board on or after January 1, 2021.