



Montgomery
County Council

Committee: Joint

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

Purpose: To make preliminary decisions – straw vote expected

Keywords: #subdivision staging policy, impact tax, recordation tax

AGENDA ITEM #4
November 5, 2020
Worksession

SUBJECT

2020-2024 Subdivision Staging Policy

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

Bill 38-20, Taxation - Development Impact Taxes for Transportation and Public School Improvements - Amendments

Expedited Bill 39-20, Taxation - Recordation Tax - Amendments

EXPECTED ATTENDEES

Casey Anderson, Planning Board Chair

Gwen Wright, Tanya Stern, Jason Sartori, Lisa Govoni, Hye-Soo Baek, Eric Graye and David Anspacher, Planning Department

Meredith Wellington, Office of the County Executive

Essie McGuire and Adrienne Karamihas, Montgomery County Public Schools (MCPS)

Christopher Conklin, Gary Erenrich, and Andrew Bossi, Department of Transportation (DOT)

Mary Beck, Pofen Salem, and Veronica Jaua, Office of Management and Budget (OMB)

David Platt and Estela Boronat de Gomes, Department of Finance

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

There have been 11 Committee worksessions in addition to the Council worksessions on October 20, 27, and 30. In addition to this worksession, another worksession is scheduled for November 10. Final action is tentatively scheduled for November 16.

DESCRIPTION/ISSUE

The issues are described in detail in the attached the staff reports.

This report contains:

Staff report

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MEMORANDUM

November 2, 2020

TO: County Council

FROM: Glenn Orlin, Senior Analyst
Pam Dunn, Senior Legislative Analyst
Robert Drummer, Senior Legislative Attorney

SUBJECT: 2020-2024 Subdivision Staging Policy (SSP), Bill 38-20 - Development Impact Taxes,
Bill 39-20 – Recordation Taxes: continuation¹

PURPOSE: Worksession

Councilmembers: please bring your copies of the SSP Report and Appendices to this worksession.

Those invited to participate in this worksession include:

- Casey Anderson, Planning Board Chair
- Gwen Wright, Jason Sartori, and Eric Graye, Planning Department
- Meredith Wellington, Office of the County Executive
- Christopher Conklin, Gary Erenrich, and Andrew Bossi, Department of Transportation (DOT)
- Mary Beck, Pofen Salem, and Veronica Jaua, Office of Management and Budget (OMB)

This worksession will continue from where the Council left off at its October 30 worksession. It will cover transportation-related Subdivision Staging Policy and impact tax recommendations, as well as the proposed change to the name of the SSP. A fiscal summary of all changes, including those made at this worksession, recommended changes to the recordation tax, and the transition language for the SSP and Bills 37-20, 38-20 and 39-20, will be covered in the staff report for the November 10 worksession. In this report, each of the Planning Board’s recommendations are referenced by its ‘Rec’ number followed by the page number(s) in the County Growth Policy (CGP) Report and Appendix. For example, the recommendations for the Bicycle System Adequacy Test are referenced as “(Rec. 5.5, p. 73; TL2.4, App. p. 98).”

A. Policy areas around Metrorail stations. The Planning Board does not recommend changes to the current transportation impact tax rate schedule. However, the Executive believes the rates in the current Red policy areas are too low and he “would support an increase in those impact tax rates due to the need

¹ Key words: #2020-2024SSP and Bill 38-20.

for and relatively high cost of providing transportation improvements in the more urbanized areas of the County.”

In developing the 2016-2020 SSP, when LATR test and transportation impact taxes were realigned to the new Red/Orange/Yellow/Green classifications, the Planning Board and Council deliberated extensively how to assign LATR standards and tax rates to each category. They considered several factors; the most important were person-miles of travel, the non-auto-driver mode share (NADMS), and the amount and type of County transportation infrastructure needed. The trips generated to and from areas immediately around Metrorail stations are generally much shorter—and the NADMS much higher—than those in areas further away. There are very few expensive new streets or intersection improvements that have yet to be constructed in the Metrorail station areas, and the sidewalk network is mostly in place. The only major County-funded transportation projects to construct within these areas that are impact tax-eligible expenses are the portions of planned Bus Rapid Transit (BRT) lines within their boundaries.

Joint PHED/GO Committee (and Council staff) recommendation (5-0): Concur with the Planning Board not to raise the rates in current Red policy areas. Impact taxes are to be commensurate with developments’ impacts on capacity needed to serve them. The current transportation impact tax rates do that. Since 2016 all transportation impact tax rates, including those in Red areas, have increased by about 12% due to biennial inflation adjustments.

EYA is planning to develop the King Buick property on the west side of MD 355. Of 20-acre property, a parcel of 10 acres is within the City of Rockville, where the County’s SSP rules do not apply, and the impact tax rates fall into the “Orange” category. The remaining 10 acres is in an adjacent parcel outside the City boundary in the Shady Grove Policy Area, where the County’s SSP rules do apply, and the impact tax rates fall into the “Red” category. Red area transportation impact tax rates are 60% less than those in the Orange area.

EYA is requesting that the City annex the ‘County’ portion of this property, and that the City ask the County Council to apply Red area impact tax rates to the to-be-annexed portion of the King Buick property. The Rockville Mayor and Council met on October 26 and decided to make that request of the County Council (©1). A map showing the Shady Grove Policy Area and the boundary of the King Buick property is on ©6.

A conceptual site plan of the site—which would have a total of 366 dwelling units—is on ©7; the current City/County boundary through the site is shown with a dashed line. The current ‘County’ portion of the site would include 102 market-rate townhouses, 59 market-rate multifamily low-rise units, and 44 MPDUs; the ‘City’ portion would include 109 market-rate townhouses, 41 market-rate multifamily low-rise units, and 11 MPDUs. Altogether there would be 211 market-rate townhouses, 100 market-rate multifamily low-rise units, and 55 MPDUs (the 15% requirement, which here would apply whether in the City or the County). The table below shows what would be the total impact taxes if: the entire property were in the Red area (as requested by EYA and the City); or split by the City/County boundary. The table also includes the associated school impact tax, which would be the same regardless.

	Transportation Tax	School Tax*	Total Impact Tax
Split Red/Orange (now)	\$3,206,335	\$4,284,451	\$7,490,786
All in Red area (proposed)	\$1,851,743	\$4,284,451	\$6,136,194

** The entire property is in the ‘Infill’ area under the proposed School Impact Tax.

Thus, the reduction in the tax to be paid by EYA under its and Rockville’s proposal would be \$1,354,592: a 42% reduction in the transportation tax, and an 18% reduction in overall impact taxes. If the ‘County’ area is included in the City, the City would impose a \$44,100 Transportation Improvement Fee on multi-family units there, so the net reduction for EYA would be \$1,310,492.

Another aspect to consider is how the transportation impact funds would be used. According to current law, transportation impact tax revenue collected on development in the City can only be spent on projects specifically identified in a Memorandum of Understanding between the City and the County. As a result, the City exercises considerable control over these County funds. (The existing MOU has been in effect since 2006; for the past six years DOT has been attempting to negotiate a revised MOU with the City, to date to no avail.) The amount going into this “Rockville Account” would differ under the two scenarios:

	“Rockville Account”	General District	Total Impact Tax
Split Red/Orange (now)	\$2,258,335	\$948,300	\$3,206,335
All in Red area (proposed)	\$1,851,743	\$0	\$1,851,743

Thus, combining these two parcels into a Red area within the City would reduce the contribution to the Rockville Account by \$406,592 and reduce the contribution to the General District Account (from which funds could be used to pay for capacity-adding projects anywhere in the County) by \$948,300.

Over the years the County has tried to conform the policy area boundaries for Rockville and Gaithersburg to their respective municipal boundaries. This has been done to make clear where the County’s SSP rules apply and where they don’t apply. (Rockville and Gaithersburg each have their own adequate public facilities ordinance.) Impact tax rates have been linked to policy area boundaries. The complexity with EYA’s and Rockville’s proposal is that it would require revising the boundary to include both parcels (upon annexation of the parcel outside the City) in the City of Rockville Policy Area, but to assign the combined parcel impact tax rates 60% lower, as if it were in the Shady Grove Policy Area.

Another point is that both parcels are beyond the half-mile walkshed of the Shady Grove Metro Station (©8); Red areas historically have been identified as those areas generally within a half-mile walk of a station. However, the Shady Grove Metro Station has always been the outlier, and the property considered for annexation, although beyond a half-mile, is closer than several other properties that are currently within the Shady Grove Policy Area boundary.

Should the Council wish to concur with EYA’s and the City’s request, Council staff recommends identifying the 20-acre consolidated property in the SSP as a ‘satellite’ of the Rockville Town Center Policy Area. The Town Center Policy Area was created many years ago strictly for the purposes of applying the lower set of transportation impact tax rates to the roughly half-mile walkshed of the Rockville Metro Station (©9); since it is entirely in the City, the County’s SSP rules do not apply. The same situation pertains to this 20-acre property.

B. Designated Growth Area discount against the transportation impact tax. The GO Committee considered but rejected unanimously a proposed discount of school impact taxes in certain Designated Growth Areas (DGAs). Councilmember Friedson has now proposed that there be such a discount, but to the transportation impact tax instead. He suggests applying a 40% discount on the transportation impact tax in all previously identified DGAs, excepting those within Red policy areas, where the rates are already 60% lower than in Orange areas and 68% lower than in Yellow and Green areas. His proposal is described on ©10-15.

A map showing the DGAs (in olive) is on ©16. The map also shows underlying layers of enterprise zones (red) and opportunity zones (dark green); if the Council were to agree with the GO Committee’s recommendation to exempt all impact taxes in these areas, then where these overlap with DGAs there would be no further discount, of course.

Since the proposal was announced early this week, the City of Rockville has expressed its opposition to applying it within its boundary. It believes the discount “would result in a loss of millions of dollars in future revenue for City transportation projects” (©2). On the other hand, the City of Gaithersburg has indicated its support for it, believing that a “reduction in the transportation impact tax would help drive development to the *Activity Centers* and continue to encourage a mix of residential and non-residential uses” (©4).

OMB estimates that, counting only those developments currently in the approved pipeline, about \$60 million in gross revenue for transportation impact tax revenue would be foregone over the next decade, an average gross of \$6 million annually. This estimate of gross revenue is low since it does not include prospective developments that will be seeking subdivision approval. Net revenue will be lower than the gross revenue, however, because of credits against this revenue granted to developers for constructing capacity-adding projects.

Council staff has the same serious concerns about this proposal as with the Planning Board’s proposal to provide this discount to the school impact tax. The COG Cooperative Forecast estimates that, increasingly, households and jobs will gravitate to Activity Centers and hotspots anyway, with 76 percent of the County’s household growth and 80 percent of its job growth occurring in these areas. OMB’s evaluation of impact tax collections from FY15-FY20 showed almost 66 percent of collections coming from development occurring in the County’s Activity Centers. If DGAs are already desirable areas for development, what is the public policy rationale for charging 40% less of a transportation impact tax than developments outside DGAs?

Finally, this proposal, as was the case with the proposal for discounting the school impact tax in DGAs, strays very far from what an impact tax is supposed to be: a means for development to pay for its incremental impact on capacity, whether it be teaching stations in schools or more capacity in the roadway, bicycle, pedestrian, or bus transit networks. A large exception to this rule is the range of affordable housing exemptions and discounts, but past Councils decided long ago to place a higher public policy priority on providing affordable housing than having that housing pay for its impact on schools or transportation. A lesser, but still significant exemption has been for development in enterprise zones—now proposed to be expanded significantly by extending this exemption to opportunity zones—the purpose of which is to incentivize growth in distressed areas (although to date the enterprise zone exemption has not promoted commercial development in a meaningful way). Smaller exemptions (or \$0 rates) exist for some other uses: bioscience, hospitals, places of worship (which were assessed a low impact tax for 20 years until the Council decided to eliminate it in 2016), clergy houses, student-built houses, and charitable and philanthropic institutions; with the exception of bioscience, each was deemed to provide a quasi-public purpose.

Granting an exemption or a discount to a development has the same fiscal impact as the County spending an equal amount to aid a development. Rather than providing a blanket exemption or discount, the County would do better to use public funds more surgically by investing in developments for which it would get more public policy bang for the public buck. This means allocating considerably more funds to the Housing Initiative and Economic Development Funds instead.

C. Policy areas around Purple Line stations (Rec. 5.9 p. 79). The Public Hearing Draft (prepared by Planning staff) recommended assigning a new classification to the Purple Line policy areas—Dark Red—with the intention that the traffic congestion delay standard and the transportation impact tax rates be set midway between those in the Red and Orange policy areas. Consequently, Planning staff recommended the delay standard to be 100 seconds/vehicle—midway between the 120 seconds/vehicle in Red areas and the current 80 seconds/vehicle standard, and setting the transportation impact tax rates at the midpoint between those in the Red and Orange areas; the Purple Line policy area rates thus would be 30% less than in Orange areas.

The Planning Board revised the Planning staff proposal. It recommended that all policy areas around the Purple Line carry the Red policy area designation. The Maryland Building Industry Association (MBIA), Bozzuto Development Corporation, and Lerch, Early & Brewer agree. The Greater Colesville Citizens Association (GCCA) would go further: it recommends designating some areas around BRT stations as Red policy areas once BRT is implemented there.

The Executive and DOT recommend deferring classifying the Purple Line Stations to Red Policy Areas. They believe it is preferable to wait until the Purple Line is operational. However, the SSP transportation test “counts” all transportation projects programmed for completion within six years; commensurately, the classifications should be based on the transportation system six years in the future. The Purple Line is funded for completion in the Maryland Department of Transportation’s six-year capital improvements program, and while its construction will likely be suspended for a time, it is more than 30% complete and it certainly will be operational by 2026. Therefore, it is now appropriate to consider treating these areas differently in the SSP.

The Purple Line will provide important travel time improvements, but it will not provide service comparable to Metrorail. Service can be calculated by three metrics: frequency, speed (i.e., distance divided by travel time), and capacity:

	Metrorail Red Line (within Montgomery County)	Purple Line (within Montgomery County)
Peak-Period Frequency	15 trains/hour	8 trains/hour
Speed	35 mph	26 mph
Capacity in Peak Direction	21,000 passengers/hour	3,448 passengers/hour

Metrorail service is almost twice as frequent, travels nearly a third faster, and can carry more than six times the passengers than the Purple Line will when it opens for service. Planning staff was correct in how it would treat Purple Line station areas in the SSP and impact tax rates.

Council staff recommendation: Concur with Planning staff’s recognition that Purple Line policy areas represent a middle level of transit service between Red and Orange areas; thus, for Purple Line policy areas setting the congestion delay standard at 100 seconds/vehicle, and the transportation impact tax rates midway between the Red and Orange policy area rates achieves this goal.

The transportation impact tax rates for the staff-proposed Purple policy area category are shown below:

<u>Land Use</u>	<u>Red Policy Areas</u>	<u>Purple Policy Areas</u>	<u>Orange Policy Areas</u>	<u>Yellow Policy Areas</u>	<u>Green Policy Areas</u>
<u>Residential Uses</u>	<i>Cost/unit</i>	<i>Cost/unit</i>	<i>Cost/unit</i>	<i>Cost/unit</i>	<i>Cost/unit</i>
SF Detached	\$7,838	\$13,715	\$19,591	\$24,490	\$24,490
SF Attached	\$6,413	\$11,222	\$16,030	\$20,038	\$20,038
Garden Apartments	\$4,986	\$8,726	\$12,465	\$15,582	\$15,582
High - Rise Apartments	\$3,561	\$6,233	\$8,904	\$11,130	\$11,130
Multi-Family Senior	\$1,424	\$2,493	\$3,562	\$4,452	\$4,452
Student-Built Houses	\$0	\$0	\$0	\$0	\$0
<u>Non-Residential Uses</u>	<i>Cost/sf</i>	<i>Cost/sf</i>	<i>Cost/sf</i>	<i>Cost/sf</i>	<i>Cost/sf</i>
Office	\$7.15	\$12.53	\$17.90	\$22.40	\$22.40
Industrial	\$3.60	\$6.25	\$8.90	\$11.20	\$11.20
Bioscience	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Retail	\$6.35	\$11.18	\$16.00	\$19.95	\$19.95
Place of Worship/Clergy House	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Private School	\$0.55	\$1.00	\$1.45	\$1.85	\$1.85
Hospital	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Charitable Institution	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Other Non-Residential	\$3.60	\$6.25	\$8.90	\$11.20	\$11.20

Joint PHED/GO Committee recommendation (3-2): Councilmembers Friedson, Navarro, and Riemer concur with the Planning Board to categorize the Purple Line policy areas as Red policy areas. Councilmembers Jawando and Katz concur with the Planning staff/Council staff recommendation.

D. Policy area boundary and classification for Westfield Montgomery Mall. Patricia Harris of Lerch, Early & Brewer, representing the owner of Westfield Montgomery Mall, testified that its property should be reclassified with an Orange policy area classification (©17-18, map on ©19). Currently, the property is part of the Potomac Policy Area, which is classified as a Yellow area. Ms. Harris notes that its property—part of an area bounded by the I-270 West Spur, Democracy Boulevard, Westlake Drive, and PEPCO’s Bells Mill substation—was included as part of the Rock Spring Sector Plan approved by the Council in 2017, and that it is planned for intensive mixed-used development as is the rest of the Rock Spring area, which is in the Orange-classified North Bethesda Policy Area.

Moving this portion of the Rock Spring Sector Plan area from the Potomac Policy Area into the North Bethesda Policy Area, and classifying it as Orange, would have two consequences: (1) the congestion delay standard for the Westlake Drive intersections at Democracy Boulevard and at Westlake Terrace would be loosened from 55 seconds/vehicle to 71 seconds/vehicle, thus these intersections will be less likely to require additional turn or through lanes in the future; and (2) the transportation impact tax levied on new development would be reduced by 20%. The area is already included in the North Bethesda Transportation Management District.

Joint PHED/GO Committee (and Council staff) recommendation (5-0): Move the portion of the Rock Spring Sector Plan area west of the I-270 West Spur from the Potomac Policy Area into the North Bethesda Policy Area, rendering it part of that Orange policy area.

The Potomac LATR standards in the SSP (TL6.2, App. p. 101) list the specific intersections in the Potomac Policy Area that are subject to the Motor Vehicle System Adequacy Test. If the joint Committee recommendation is adopted, then the Westlake Drive intersections at Democracy Boulevard and Westlake Terrace should be deleted from the list, since they now would be in the North Bethesda Policy Area.

E. Classification for the White Oak Policy Area. Jonathan Genn, representing Global LifeSci Development Corporation, advocates that the White Oak Policy Area, now an Orange policy area, be classified as a Red policy area, which would result in lessening the congestion delay standard from 80 seconds/vehicle to 120 seconds/vehicle and would reduce transportation impact taxes by 60%. GCCA concurs. Mr. Genn’s reasoning is based upon his reading of the 2014 White Oak Science Gateway (WOSG) Master Plan (©20), which begins:

This Plan recommends that in light of the County’s economic objectives and its ownership interest in the Life Sciences property, the Plan area be considered an economic opportunity center, similar in form and function to areas around a Metro Station or a central business district with an ultimately urban character, and that the roadway and transit adequacy standards used in the Subdivision Staging Policy for areas that are currently designated as Urban be applied to the Plan area. Currently the Urban roadway standard is a minimum 40 percent ratio of forecast speed to uncongested speed (the borderline between Levels of Service “D” and “E”) averaged over all arterials and roads of higher classifications. [WOSG Master Plan, p. 54]

However, the term “Urban” in this context does *not* refer to what were then called Metro Station policy areas (now Red policy areas), but to the “Urban Ring” identified in the 1993 update to the County’s General Plan. In that update, the County was split into five zones: the Urban Ring, the I-270 Corridor, the Suburban Communities, the Residential Wedge, and the Agricultural Wedge. The Urban Ring has a boundary that includes all of Bethesda/Chevy Chase, Silver Spring/Takoma, Kensington/Wheaton, nearly all North Bethesda—and about half of the WOSG planning area: Hillandale and the FDA. Council staff argued then that the Fairland/White Oak Policy Area be split, with White Oak being treated like the other Urban Ring policy areas.

The Council concurred with staff’s recommendation, and the consequences were that the congestion delay standard in White Oak was loosened from 0.92 volume/capacity (59 seconds/vehicle) to 1.00 volume/capacity (80 seconds/vehicle). When the “color” classification system was implemented in the 2016-2020 SSP, the White Oak Policy Area was designated as an Orange policy area; without the change in the WOSG Master Plan it would have been part of a Yellow Fairland/White Oak Policy Area, with transportation impact tax rates 25% higher than they are now.

Joint PHED/GO Committee (and Council staff) recommendation (5-0): Concur with the Planning Board that the White Oak Policy Area remain as an Orange policy area.

F. Non-auto-driver mode share (NADMS) goals. (TL6.1-6.9, App. pp. 101-103). Many master and sector plans include NADMS goals for their respective planning or policy areas. Sometimes the goal is only for residents or only for employees, other times there are goals for both residents and employees, and at still other times there is one ‘blended’ goal. These goals are also represented in the SSP in Section TL6, “Unique Policy Area Issues.”

Bill 37-16, Transportation Demand Management (TDM), approved last year, set the stage for TDM efforts to be expanded to every Red, (Purple?), Orange, and Yellow policy area. However, not all these areas have established NADMS goals. During the deliberations on Bill 37-16 the Council requested that the Planning Board, for this SSP, recommend NADMS goals for those policy areas that do not already have them. If approved by the Council, the NADMS goal(s) for every policy area would be included in Section TL6.

Planning staff and the Planning Board were not able to fulfill this request by the August 1 deadline for transmitting the Final Draft SSP. However, during August, Planning staff developed recommendations and the Board approved them on September 10. Table 1 in the report (©21) restates the existing NADMS goals; Table 2 (©22) shows the recommended goals for those areas where they do not now exist.

At the last worksession, Chair Anderson noted that some of the goals in existing plans appear to be out of sync. He cited a good example: the 39% goal in the Friendship Heights Plan (adopted in 1996), which now seems very low considering the 55% goal in the Bethesda CBD approved only a few years ago. Unfortunately, changes in these existing NADMS goals cannot be amended at this time: guidance in approved master and sector plans supersede guidance in the SSP. However, the existing NADMS goals could be revised in the next countywide transportation functional master plan, which is the Pedestrian Master Plan scheduled for Council review in 2022. **PHED Committee (and Council staff) recommendation (3-0): Review the existing master plan NADMS goals in Table 1 as part of the Pedestrian Master Plan.**

PHED Committee (and Council staff) recommendation (3-0): Revise the Planning Board's proposed NADMS goals in Table 2 as follows:

- **Change “Lyttonsville/Woodside” to just “Woodside.”** Lyttonsville already has its own NADMS goal in the chart: 50% blended. 50% blended for Woodside also makes sense.
- **Apply a 50% blended goal to the new Purple Line East area, superseding the proposed goal for Takoma/Langley (49% residents, 36% employees).**
- **Change the goal for Glenmont from 30% employees to a blended 35%.** There will be both housing and employment there.
- **Change the goals in Clarksburg and Clarksburg Town Center from 29% residential to a blended 25%.** If there were a residential NADMS goal it should be lower than for Germantown East and West (it is currently higher), and the employment NADMS would be even lower.
- **Change the goal in Burtonsville Town Center from 27% residential to a blended 25%.** The current proposal is for residents only, but more of the town center—now and at buildout—will be commercial.
- **Change all the proposed goals from “residential” to “blended” in Germantown East, Germantown West, North Potomac, Potomac, Aspen Hill, Derwood, Cloverly, Olney, Fairland/Colesville, Bethesda/Chevy Chase, Silver Spring/Takoma, and Kensington/Wheaton.**

G. Local Area Transportation Review (LATR). The current LATR includes tests for motor vehicle, pedestrian, bicycle, and transit adequacy. The Final Draft SSP would revise each of these tests and add a fifth test for safety.

1. Motor Vehicle System Adequacy Test. This test has existed in some shape and form for decades, and it is common throughout the country. Currently the County's test measures the average vehicle delay

to pass through signalized intersections. The standards are expressed in terms of the Highway Capacity Manual (HCM) volume-to-capacity ratio and average delay per vehicle.² The measure regularly used is the average delay per vehicle, which is an average of all motor vehicle traffic passing through an intersection, including traffic in off-peak directions. The Motor Vehicle Adequacy Test applies to any development generating 50 or more weekday peak-hour person trips.

The standards vary by policy area, with more congestion allowed where there is greater frequency, speed, and capacity of transit service as an alternative to driving. Therefore, each Red policy area, which comprises an area within walking distance of a Metrorail Station and the many bus routes serving it, has the most lenient delay standard: 120 seconds/vehicle. The further away from Metrorail and bus service, the tighter the congestion standard, to the point where the standard in Damascus is 48 seconds/vehicle and in the rural policy areas is 41 seconds/vehicle. Table 1 (below) shows the standards by policy area.

a. Red policy areas (Rec. 5.6, p 74; TL2.2, App. pp. 95-96). The Planning Board recommends that the Motor Vehicle Adequacy Test be eliminated in Red policy areas. Lerch Early & Brewer, the Coalition for Smarter Growth, and the Greater Colesville Citizens Association (GCCA) concur. The Board argues that the Motor Vehicle Test “often results in mitigation requirements that are in direct conflict with Vision Zero-related travel safety goals and objectives”, an overly broad statement that is generally not true, especially in Red policy areas. The Final Draft itself notes that the 120 seconds/vehicle standard “combined with the fact that most MSPAs [Red policy areas] have a robust street grid that disperses traffic resulting in relatively few LATR studies” results in relatively few intersection improvements. It posits that in Red areas “desired master-planned improvements are most likely to be multimodal and operational in nature”, and that is true; in fact, most mitigation of the 120 seconds/vehicle standard in Red areas is through such transportation demand management (TDM) measures as transit subsidies, carpool programs, provision of bikeshare stations, car-sharing, etc. The Board also desires to streamline approvals in Red areas to maximize the benefits of the presence of Metrorail.

² The HCM is published by the National Academy of Sciences’ Transportation Research Board.

Table 1

Local Area Transportation Review Intersection Congestion Standards – Highway Capacity Manual Volume-to-Capacity (Former CLV Standard) and Average Vehicle Delay Equivalencies

HCM Volume-to-Capacity Standard (Former Standard)	Policy Area	HCM Average Vehicle Delay Equivalent (seconds/vehicle)³
0.84 (1,350 CLV)	Rural East/ West	41
0.88 (1,400 CLV)	Damascus	48
0.89 (1,425 CLV)	Clarksburg Germantown East Germantown West Gaithersburg City Montgomery Village/Airpark	51
0.91 (1,450 CLV)	Cloverly North Potomac Potomac Olney R&D Village	55
0.92 (1,475 CLV)	Derwood Aspen Hill Fairland/Colesville	59
0.94 (1,500 CLV)	Clarksburg Town Center Germantown Town Center Rockville City	63
0.97 (1,550 CLV)	Burtonsville Town Center North Bethesda	71
1.00 (1,600 CLV)	Bethesda/Chevy Chase Chevy Chase Lake Kensington/Wheaton Long Branch Silver Spring/Takoma Park Takoma/Langlely White Oak	80
1.13 (1,800 CLV)	Bethesda CBD Silver Spring CBD Wheaton CBD Friendship Heights CBD White Flint Twinbrook Grosvenor Glenmont Shady Grove Rockville Town Center	120

³ The Veirs Mill Corridor Master Plan set the HCM Delay Equivalent at 100 seconds/vehicle at all Veirs Mill Road intersections between boundaries of the Wheaton CBD Policy Area and the City of Rockville.

The Executive and DOT oppose eliminating LATR Study in any Red area until a Unified Mobility Program is implemented to share in the infrastructure improvement costs, and the Town of Chevy Chase agrees. A Unified Mobility Program (or “UMP”) is a program of transportation improvements—road, bikeway, and sidewalk projects, as well as transit service—that together comprise what is needed to serve all the local area transportation needs in a master plan area. The concept is that a comprehensive program of local area transportation improvements is developed, with each development paying its proportionate share of that cost through payment of the UMP fee; this is the alternative to having each applicant produce its own traffic study and mitigation. This measure was included in the SSP during the last few years, precisely with the goal of streamlining approvals.

Several years ago, an UMP and its fee was approved by the Council for the White Oak Planning Area, and DOT has been developing an UMP for the Bethesda CBD which has yet to be transmitted to the Council for public hearing, deliberation, and action. Eliminating the LATR’s 120 seconds/vehicle test in Red policy areas would undercut the motivation for the UMPs and for TDM measures.

Council staff concurs with the Executive and DOT to retain the 120 seconds/vehicle standard in any given Red policy area until it can be superseded by an UMP. DOT should ramp up its efforts to develop UMPs for all the Red policy areas, with the goal of implementing them prior to the next SSP.

PHED Committee recommendation (2-1): Councilmembers Riemer and Friedson concur with the Planning Board to eliminate the Motor Vehicle System Adequacy Test in Red policy areas. Councilmember Jawando concurs with Council staff to retain the test and its 120 seconds/vehicle standard in each Red policy area until replaced by an UMP.

b. Expand Critical Lane Volume (CLV) methodology as an alternative to HCM analysis methodology (Rec. 5.7, pp. 74-75; TL2.2, App. p. 96). Under Growth Policies prior to 2012, the County used the CLV method of analyzing future conditions at an intersection. CLV has the advantage of being simple, transparent, and quick. However, over the past 20 years the traffic engineering profession has gravitated towards more robust methods of estimating future delay, especially as operational analysis methods such as that described in the Transportation Research Board’s Highway Capacity Manual (HCM) and network operational models such as Synchro and Corsim became easier to use. These methods, although more data intensive and time-consuming, produce much more accurate predictions of delay.

In the 2012-2016 SSP, the Council decided that any intersection forecast to have a CLV worse than 1,600 (the borderline between Level of Service E and F) would require a second-tier test incorporating the HCM method. In the 2016-2020 SSP, the Council decided that any intersection located within Red or Orange policy areas would use the HCM method solely, and that any intersection located within Yellow or Green policy areas with a CLV greater than 1,350 would use the HCM method.

For the 2020-2024 SSP, the Planning Board has recommended re-expanding the utilization of the CLV test. It recommends that in Orange, Yellow, and Green policy areas the simpler CLV method be used for any intersection that meets that policy area’s former CLV standard, and those worse than the standard would be re-tested by the more robust HCM method. Lerch, Early & Brewer supports this recommendation. On the other hand, the Executive opposes this recommendation.

PHED Committee (and Council staff) recommendation (3-0): Do not change the test’s methodology concurs with the Executive: do not change the test’s methodology. The CLV method is

less reliable in predicting delay. For intersections that are forecasted to be near the standard there is a near 50% chance that the CLV method would understate congestion and result in a false positive.

c. BRT Corridor standard (Rec. 5.8, pp. 75-77; TL9, App. p. 104). The Final Draft recommends loosening the traffic congestion standard for intersections along roads in Orange and Yellow policy areas where BRT routes are master-planned. Currently those standards vary between 80 seconds/vehicle downcounty to 51 seconds/vehicle in Germantown and Clarksburg. The Planning Board proposes setting the standard for these intersections at a uniform 100 seconds/vehicle, thus allowing congestion levels to rise by 25-96% without requiring mitigation. Lerch, Early & Brewer concur. Conversely, the Executive opposes the recommendation. A map showing the planned BRT routes is on p. 76, and a table showing how the intersection standards would change along these routes is on p. 77.

Council staff concurs with the Executive in opposing this proposal. At best, it is premature. Except for the US 29 BRT, none of these routes are funded in the CIP or CTP for completion in six years so, unlike the Purple Line, they cannot be considered a “given.” And the US 29 FLASH service that will begin operation next month will run in general traffic over most of its length; while it will be an improvement over current bus service, transit riders along US 29 will still travel more slowly than general traffic. This is not sufficient rationale for a more lenient congestion standard.

Furthermore, most BRT routes may never justify a more lenient congestion standard, since they are unlikely to provide better travel time than automobiles. The table below shows the forecasted travel times in Year 2040 for the preferred alternatives on MD 355 and MD 586 for BRT versus autos:

<i>MD 355 between Watkins Mill Rd and E-W Hwy</i>	<i>Minutes by Auto</i>	<i>Minutes by BRT</i>
Northbound, morning peak, Year 2040	40.7	67.8
Southbound, morning peak, Year 2040	54.1	61.0
Northbound, evening peak, Year 2040	72.5	76.9
Southbound, evening peak, Year 2040	48.5	61.9

<i>MD 586 between Rockville and Wheaton</i>	<i>Minutes by Auto</i>	<i>Minutes by BRT</i>
Eastbound, morning peak, Year 2040	21.3	26.2
Westbound, morning peak, Year 2040	20.5	22.7
Eastbound, evening peak, Year 2040	20.2	25.3
Westbound, evening peak, Year 2040	18.6	25.7

These routes differ from Metrorail and the Purple Line which, respectively, do or will operate in exclusive or near-exclusive rights-of-way, providing a faster service than by auto and warranting more lenient congestion standards at intersections near their stations.

As the BRT routes are more defined and programmed for completion within six years, the Council could examine their anticipated service to determine whether the congestion standard for nearby intersections should be relaxed. For example, if the Corridor Cities Transitway is programmed to be built along an exclusive right-of-way, it may be plausible to loosen the standard on intersections in its immediate vicinity. But as noted above, any relaxation of standards now is premature.

PHED Committee (and Council staff) recommendation (3-0): Do not apply a 100 seconds/vehicle congestion delay standard to intersections along master-planned Bus Rapid Transit (BRT) routes. Text should be added stating that if a master or sector plan specifies a congestion standard, it would take precedence over what is in the SSP.

2. *Bicycle System Adequacy Test* (Rec. 5.5, p. 73; TL2.4, App. p. 98). The current Bicycle System Adequacy Test has as its objective to provide low Level of Stress conditions for bikers in the vicinity of a development. Specifically, it requires a development generating at least 50 peak-hour *non-motorized* trips and located within a quarter-mile of an educational institution or existing/planned bikeshare station to make improvements needed to provide low Level of Traffic Stress (LTS-2) conditions that link the site to—or otherwise extend an—LTS-2 facility within 750 feet of a development site boundary, or to implement a master-planned improvement that provides an equivalent improvement to LTS-2.

The Planning staff had proposed expanding the scope to include any development that generates at least 5 peak-hour bicycle trips and had proposed dropping the restriction that the development be within a quarter-mile of a school or a bikeshare station.

The Planning Board proposes expanding the scope of the test considerably more in most areas of the County. It would require the same type of improvement for a development generating at least 100 peak-hour *person* trips and, like Planning staff, it would drop the restriction that the development be within a quarter-mile of a school or a bikeshare station. It would also apply the test to a development generating 50-99 peak-hour person trips, in which case mitigation needed within 375 feet of the site's boundary would be required. In the Bethesda and Silver Spring CBDs, where the non-auto-driver mode share (NADMS) is currently at or approaching 50%, the difference between 50 non-motorized trips and 100 person trips is inconsequential. However, in the mid-to-upcounty, the existing or proposed master-planned NADMS goals are well below 50%, ranging between 22% (Olney) to 39% (Derwood). The current NADMS in these areas, of course, are much lower than that.

Neither the Executive nor DOT commented on this proposal. Lerch, Early & Brewer initially opposed that Planning staff recommendation because the testing would be expensive and time consuming, would capture smaller projects that do not justify that level of testing, and would make the County less competitive with other local jurisdictions. However, in the face of the Planning Board's even more extensive recommendation, it requests the Council to approve the Planning staff recommendation of a 5 peak-hour trip minimum threshold requiring mitigation within 750 feet of a site.

At the last worksession, the PHED Committee indicated that they want to use the Planning Board's person-trip measure for the Bicycle and Transit System Adequacy tests. The members asked that Planning, DOT, and Council staffs attempt to develop consensus recommendations for these tests. These staffs met twice (virtually) over the past few days and developed such recommendations. The staffs were informed by peak-hour person-trip generation rates by mode, which show that bicycle and pedestrian trips generated by the same size of development are significantly lower in the Yellow zone than in the Red and Orange zones, and even lower in the Green zone. The staffs also agreed that much larger developments should have stiffer requirements than had been proposed by the Board.

PHED Committee (and Council staff) recommendation (3-0): Replace Section TL2.4 with the following:

TL2.4 Bicycle System Adequacy

Bicycle system adequacy is defined as providing a low Level of Traffic Stress (LTS-2) for bicyclists. Bicycle system analysis will be based on the following standards and scoping:

For any site generating at least 50 peak-hour person trips:

Conduct an existing adequacy test to ensure low Level of Traffic Stress (LTS-2) conditions on all transportation rights-of-way within a certain distance of the site frontage, specified in the table below. If current and programmed connections will not create adequate conditions, the applicant must construct sidepaths, separated bike lanes, or trails, consistent with the Bicycle Master Plan, that create or extend LTS-2 conditions up to the specified distance from the site frontage.

Peak-Hour Person-Trips Generated	Red⁴ and Orange Policy Areas	Yellow and Green Policy Areas
50-99	400	250
100-199	750	400
200-349	900	500
350 or more	1,000	600

Alternatively, if the Planning Board and MCDOT agree that constructing all or part of this requirement may not be practicable due to undesirable transitions, unattainable right-of-way, or an existing CIP project, an applicant may meet this requirement with a mitigation payment to MCDOT that is reasonably related to MCDOT’s estimated cost of constructing the required facilities. These funds must be used by MCDOT in the construction of other LTS-1 or LTS-2 bicycle system improvements within the same policy area, or—for a Red policy area or an Orange town center policy area—either in that area or an adjacent one, unless the applicant agrees otherwise.

These revisions would retain the Planning Board’s proposal for developments in Red and Orange policy areas that generate fewer than 200 peak-hour person-trips. They would require a larger investment for developments generating 200 or more trips, up to a maximum distance of 1,000 feet from the site. The revisions also recognize that Yellow and Green policy areas generate significantly fewer bicycle trips, holding the development size constant.

3. *Transit System Adequacy Test* (Rec. 5.5, pp. 73-74; TL2.5, App. p. 98). The current Transit System Adequacy Test is, in actuality, a Bus System Adequacy Test. In the 2016-2020 SSP the standard is to provide for bus loadings of no more than 1.25 riders per seat during the peak period in the peak direction. For any development generating at least 50 peak-hour riders, the applicant must inventory bus routes at stations/stops within 1,000 feet of the site and identify the peak load for each route at that station. The applicant must coordinate with the bus service provider to identify and implement (or fund) improvements that would be needed to address conditions worse than 1.25 riders per seat due to the additional patrons generated by the development. No such improvements have been required since the test was initiated in 2016.

Planning staff had recommended applying the current test much more widely: to developments generating at least 5 peak-hour transit riders. The Planning Board’s proposed threshold is 50 peak-hour person trips, which is not likely as broad as the Planning staff’s threshold, but much broader than the current 50 peak-hour bus rider threshold. Furthermore, the Board proposes applying the test to a development generating 50-99 peak-hour person trips, in which case the inventory is for stations/stops within 500 feet (instead of 1,000 feet) from the site.

⁴ This would apply in Purple policy areas, too, should the Council approve them.

Neither the Executive nor DOT commented on this proposal. As with the Bicycle System Adequacy Test, Lerch, Early & Brewer initially opposed that Planning staff recommendation because the testing would be expensive and time consuming, would capture smaller projects that do not justify that level of testing, and would make the County less competitive with other local jurisdictions. However, in the face of the Planning Board’s more expansive recommendation, it requests the Council to approve the Planning staff recommendation of a 5 peak-hour trip minimum threshold requiring implementing or funding added bus service if the bus loadings are more than 1.25 riders/seat at stations/stops within 1,000 feet of the site.

The proposed test ignores a fundamental aspect of bus service: that buses tend to be overfilled only when approaching the Metro station end of the line. It makes little fiscal sense to acquire one or more buses—costing \$525,000 for a diesel bus, \$890,000 plus charging infrastructure for an electric bus—plus its operation and maintenance costs, simply to run less than 25% over seating capacity in the last mile of a route. Furthermore, bus service is very dynamic: Metrobus and Ride On adjust their schedules three times a year to address overcrowding such as this.

Bus service, since it is not fixed over time as is road, bikeway, or pedestrian infrastructure, does not lend itself readily to an adequate public facilities test. It is not as if transit viewed comprehensively isn’t considered: the very classification of policy areas into Red, Orange, Yellow, and Green (and Purple?) categories is based on the prevalence of transit.

If the concern is that, absent this test, new development would not be doing enough to support transit ridership, the new regime of TDM ushered in by Bill 36-18 will ultimately place new TDM requirements on developments in Orange and Yellow policy areas, not just in Red policy areas. Depending on the size of the development, these requirements will be both be operational and financial, and they will be continuing responsibilities, not mere one-time investments.

PHED Committee (and Council staff) recommendation (3-0): Replace Section TL2.5 with the following:

For any site generating at least 50 peak-hour person trips in Red, Orange, and Yellow policy areas:

Conduct an existing adequacy test to assure that there are bus shelters outfitted with real-time travel information displays and other standard amenities, along with a safe, efficient, and accessible path between the site and a bus stop, at a certain number of bus stops within a certain distance of the site frontage, specified below. Where shelters and associated amenities are not provided, an applicant must construct up to the number of shelters and amenities specified below.

Peak-Hour Person-Trips Generated	Red and Orange Policy Areas	Yellow Policy Areas
50-99	2 shelters within 500’	1 shelter within 500’
100-199	2 shelters within 1,000’	2 shelters within 1,000’
200-349	3 shelters within 1,300’	2 shelters within 1,300’
350 or more	4 shelters within 1,500’	3 shelters within 1,500’

Alternatively, if the Planning Board and MCDOT agree that constructing all or part of this requirement may not be practicable due to undesirable transitions, unattainable right-of-

way, or an existing CIP project, an applicant may meet this requirement with a mitigation payment to MCDOT that is reasonably related to MCDOT’s estimated cost of constructing the required facilities. These funds must be used by MCDOT in the construction of other bus shelters with the same amenities and improvements to pedestrian access to and from bus stops, such as improved paved connections, crossings, and lighting. These funds must be spent on such improvements within the same policy area, or—for a Red policy area or an Orange town center policy area—either in that area or an adjacent one, unless the applicant agrees otherwise.

4. *Pedestrian System Adequacy Test* (Rec. 5.5, pp. 72-73; TL2.3.1-2.3.2, App. pp. 96-97). The current Pedestrian Adequacy Test (in TL2.3.1 named the “Interim Pedestrian System Analysis”) is defined as providing level of service (LOS) D capacity or better in any crosswalk. Any site that generates more than 50 pedestrian peak hour trips (including walking trips to transit) must:

- Fix (or fund) Americans with Disabilities Act (ADA) non-compliance issues within a 500-foot radius of site boundaries; and
- Ensure no more than an average of 40 seconds of crosswalk pedestrian delay (or no more delay than existing) at LATR study intersections within 500 feet of site boundaries or within a Road Code Urban Area/Bicycle Pedestrian Priority Area (RCUA/BPPA). Pedestrian delay is the average of all crosswalks at an intersection, each crossing’s delay weighted by its pedestrian volume.

Regardless of the development size and location, if an intersection operational analysis is triggered for any intersections within an RCUA/BPPA, mitigation must not increase average pedestrian crossing time at the intersection. Crossing time includes the time waiting for a ‘Walk’ signal and completing the crossing.

The Final Draft proposes that this test be replaced with the following “Vision Zero Enhanced Pedestrian System Analysis” (TL2.3.2) once the Planning Board has approved a Pedestrian Level of Comfort (PLOC) map, which is currently under development by the staff:

For any site generating 100 or more peak-hour person trips the applicant must:

Demonstrate achievement of a “somewhat comfortable” or “very comfortable” Pedestrian Level of Comfort (PLOC) score for walking to destinations within 500 feet of a development site boundary – including commercial centers, transit stations, schools, parks, libraries, recreation centers, medical facilities, among other things – or transit stops within 1,000 feet of the development site boundary. If current conditions are not adequate, the applicant must construct up to 1,000 feet of improvements to achieve adequacy from the site frontage. Specific improvements to be constructed should be identified in consultation with Montgomery Planning.

Evaluate existing street lighting based on Montgomery County Department of Transportation (MCDOT) standards along roadways or paths from the development to destinations within 500 feet of the development site boundary or to transit stops within 1,000 feet of the development site boundary. Where standards are not met, street lighting shall be upgraded to meet the applicable standards. The streetlight field review shall include a field inventory of existing streetlight and pedestrian scale fixtures with spacing and general location of luminaire noted (utility pole mounted, stand-alone pole mount, or pedestrian scale). All longitudinal spacing or intersection locations that do not meet MCDOT standards should be noted. Note this inventory is not intended to be a full lighting study with measurement of illuminance levels but will identify missing lighting

locations at intersections as well as longitudinal spacing deficiencies as per MCDOT streetlight standards.

For any site generating at least 50 pedestrian peak-hour trips (including to transit) the applicant must fix (or fund) Americans with Disabilities Act (ADA) non-compliance issues within a 500-foot radius of site boundaries.

For developments generating 50-99 peak-hour person trips, the scope of the sidewalk and streetlight improvements required are proposed to be half that of what would be required of developments generating 100 or more peak-hour person trips. The scope of required ADA improvements would be the same, however.

The Executive and DOT note that two of the documents needed to determine pedestrian adequacy—the Pedestrian Master Plan and the PLOC Map—are still under development. Lerch, Early & Brewer notes that the 50 peak-hour person-trip threshold may be appropriate in urban settings, where that might translate to at least 5 peak-hour pedestrian trips, but would not be appropriate upcounty, where far fewer than 5 persons would walk to work.

To understand the potential effect of this test, it is important to have a thorough understanding of the Pedestrian Level of Comfort (PLOC) methodology. A detailed description of the methodology is on ©23-47; this version of the methodology reflects further refinements suggested by DOT and Council staff. The partially completed PLOC Map can be viewed at www.mcatlas.org/pedplan; Planning staff anticipates completing the PLOC Map this coming summer.

PHED Committee (and Council staff) recommendation (3-0): Replace Section TL2.3 with the following:

TL2.3 Pedestrian System Adequacy

The Pedestrian System Adequacy Test consists of three components:

- 1. Pedestrian Level of Comfort (PLOC).** Pedestrian system adequacy is defined as providing a “Somewhat Comfortable” or “Very Comfortable” PLOC score on streets and intersections for roads classified as Primary Residential or higher (excluding Controlled Major Highways and Freeways, and their ramps),⁵ within a certain walkshed from the site frontage, specified in Table T3. The table also identifies the maximum span of improvement that the applicant must provide beyond the frontage. Specific improvements to be constructed should be identified in consultation with Montgomery Planning and MCDOT.
- 2. Street Lighting.** The applicant must evaluate existing street lighting based on MCDOT standards along roadways or paths from the development to destinations within a certain walkshed from the site frontage, specified in Table T3. The table also identifies the maximum span of streetlighting that the applicant must provide beyond the frontage. Where standards are not met, the developer must upgrade the street lighting to meet the applicable standards.
- 3. ADA Compliance.** The applicant must fix Americans with Disabilities Act (ADA) non-compliance issues within a certain walkshed from the site frontage equivalent to half the

⁵ Or the equivalent classifications in the Complete Streets Design Guidelines, when approved by the County Council.

walkshed specified in Table T3. The table also identifies the maximum span of ADA improvements that the applicant must provide beyond the frontage.

Table T3. Pedestrian Adequacy Test Scoping

Peak-hour Person Trips Generated	Red and Orange Policy Area Walkshed*	Yellow and Green Policy Area Walkshed*
50-99	400'	250'
100-199	750'	400'
200-349	900'	500'
350 or more	1,000'	600'

*The maximum required length of sidewalk and streetlighting improvements beyond the frontage is 4 times the appropriate value in this column. The maximum span required for ADA improvements beyond the frontage is equal to the appropriate value in this column.

Alternatively, if the Planning Board and MCDOT agree that constructing all or part of these requirements may not be practicable due to unattainable right-of-way, an existing CIP project, other operational conditions outside the applicant’s control, or otherwise not considered practicable by the Planning Board and MCDOT, an applicant may meet this requirement with a mitigation payment to MCDOT that is reasonably related to MCDOT’s estimated cost of constructing the required facilities. These funds must be used by MCDOT in the construction of other pedestrian system improvements within the same policy area, or—for a Red policy area or an Orange town center policy area—either in that area or an adjacent one, unless the applicant agrees otherwise.

These revisions would make the following changes to the Final Draft’s proposed Pedestrian Test:

- As under the Bicycle and Transit System Adequacy Tests, a larger requirement should be expected of larger developments, and the mandated investment in Yellow and Green areas should be less because the propensity for walking to most destinations is less, due to the lower density of development there.
- The Pedestrian Test should set a maximum requirement for sidewalks, streetlighting and ADA improvements because, unlike the Bicycle Test that limits improvements to the bikeways in the Bicycle Master Plan, the Pedestrian Master Plan will not specify particular sidewalk improvements on particular streets and roads.
- The Pedestrian Test would not require pedestrian improvements on secondary or tertiary residential streets—where the need is not as great and where difficult neighborhood disputes will likely ensue—nor at ramps to and from freeway or controlled major highway interchanges, where the County has no jurisdiction.
- As under the Bicycle and Transit Tests, a mitigation payment would be allowed as an alternative for all or part of this requirement should the Planning Board and DOT agree that construction of improvements would not be practicable.

5. *Safety System Adequacy Test* (Rec. 5.5, pp. 71-72; TL2.1, App. p. 95). The Planning Board recommends a new, fifth LATR test that would examine LATR through a Vision Zero lens. A mathematical model currently under development—the Predictive Safety Analysis—would have the goal of predicting the number of crashes along roadways and at intersections. Safety system adequacy would be defined as a reduction in overall estimated crashes. The geographic scope of the analysis would be the lesser of: (1) one network mile from the development and (2) the area used in scoping the Motor Vehicle System Adequacy Test:

Maximum Peak-Hour Vehicle Trips Generated	Minimum Signalized Intersections in Each Direction
< 250	1
250 – 749	2
750 – 1,249	3
1,250 – 1,750	4
1,750-2,249	5
2,250 – 2749	6
> 2,750	7

As in the Motor Vehicle System Adequacy Test, the Safety System Adequacy Test would apply to all developments that generate 50 or more weekday peak-hour person trips.

The Planning Board proposes that for a development to pass the test, its Predictive Safety Analysis of the additional traffic from the site and transportation improvements required from the other LATR tests must result in a reduction in the overall estimated number of crashes along all intersections and road segments within the geographic scope. This would be a departure from the traditional requirement of the Motor Vehicle System Adequacy Test, that only requires that a new development mitigate *its* impact, not to address pre-existing deficiencies. The Bicycle and Pedestrian System Adequacy Tests, however, do require a developer to address off-site pre-existing deficiencies.

The proposed text also states that the developer “should make a fair share contribution to mitigation at study intersections that are not direct access points to the development” (App. p. 95). This somewhat contradicts the requirement the prior sentence, which states: “If the number of expected crashes is found to increase with the new development traffic, safety mitigation *must* be applied in order to reduce the overall number of expected crashes at study intersections *and street segments* to below predevelopment levels” (*emphasis* Council staff). Would the developer be required to construct or fund all necessary safety improvements to reduce crashes, or just make a “fair share” contribution? The text needs clarity.

Several testified in favor of including a Vision Zero test in the SSP, although few commented on the specifics. Lerch, Early & Brewer argues that any exaction must meet a basic nexus and proportionality test: the use of any exacted funds must be restricted to the safety improvements required of that developer, and the total exactions from multiple projects in the vicinity must not exceed the total cost of safety improvements there. The B.F. Saul Company notes that the metrics for this test do not yet exist, and it is concerned about the unknown effect that the cumulative proposed changes to LATR will have on development costs, especially during the present time.

The Executive and DOT recommend deleting or significantly revising this section. They note that the Predictive Safety Analysis, Vision Zero Toolkit and Complete Street Guidelines are not yet finished, and that a mathematical model to predict crashes may not be able to be validated. Alternatively, they recommend that developments follow the guidance in master plans and the to-be-completed Complete Streets Design Guide.

Planning staff report that the Vision Zero Toolkit should be finished in the next month or two. The Complete Streets Design Guide likely will be transmitted to the Council in January, which means the T&E Committee and Council reviews and approval will not be completed until late this winter. The Predictive Safety Analysis is not anticipated to be completed until next summer.

PHED Committee (and Council staff) recommendation (2-0): Councilmembers Riemer and Friedson recommend not including the proposed Safety System Adequacy Test in the SSP at this time. The Council could review and act on a Safety Test as part of an SSP amendment once these other studies are complete, perhaps in Fall 2021.

6. *Vision Zero Impact Statement* (Rec. 5.4, p 70; TL3, App. pp. 98-99). The Planning Board also recommends that every development generating at least 50 weekday peak-hour person trips produce an impact statement describing six elements:

- Any segment of the high injury network located on the development frontage;
- Crash analysis for the development frontage;
- An evaluation of the required sight distance for all development access points;
- Identification of conflict points for drivers, bicyclists, and pedestrians, and a qualitative assessment of the safety of the conflict;
- A speed study, including posted, operating, design, and target speeds; and
- Any capital or operational modifications required to maximize safe access to the site and surrounding area, particularly from the Vision Zero Toolkit.

The stated goal of the impact statement is “to ensure Vision Zero resources accurately reflect conditions on the development frontage.”

The Executive and DOT raise concerns about each of the six proposed elements, from questioning how the information will be useful in designing solutions, to noting that some of this information exists and is readily available to plan reviewers, to expressing concern with developers’ consultants being required to perform crash analyses about which they don’t have expertise.

PHED Committee (and Council staff) recommendation (3-0): Replace Section TL3 with the following:

All LATR studies for a site that will generate 50 or more peak-hour person trips must develop a Vision Zero Statement. This statement must assess and propose solutions to high injury network and safety issues, review traffic speeds, and describe in detail how safe site access will be provided. With concurrence of the responsible agency, projects must implement or contribute to the implementation of safety countermeasures. The County Council may adopt predictive safety analysis as part of this statement, when available.

7. *Vision Zero resources* (Rec 5.1, p 68; TL1, App pp 94-95). The Planning Board recommends that a development’s traffic consultant be required to report inaccurate and outdated bicycle and pedestrian network data in the following reports to Planning staff during the consultant’s conducting a transportation impact study:

- Bicycle Master Plan
- Pedestrian Master Plan
- High Injury Network
- Predictive Safety Analysis
- Bicycle Level of Traffic Stress Map
- Pedestrian Level of Comfort Map

- Vision Zero Toolkit
- Complete Streets Design Guide

The SSP notes that this is particularly important for the Bicycle Level of Traffic Stress Map and the PLOC Map. It is often difficult for planners to keep their databases updated to account for all the changes to the transportation network, especially the smaller ones.

PHED Committee (and Council staff) recommendation (3-0): Concur with the Planning Board, except that the text should refer to transportation network databases generally (including road and transit system databases) and not to specific documents, which may change over time.

8. *Mitigation priorities* (Rec. 5.2, pp. 68-69; TL5, App. pp. 100-101). The Planning Board states that a “developer must mitigate *all* failing LATR tests (safety, transit, bicycle, pedestrian, transit, and motor vehicle)” [*emphasis theirs*]. However, the next sentence goes on to say that “motor vehicle congestion strategies (widening roads or intersections, even modifying signal timing) can [are?] often counter to other mitigation strategies related to other modes of travel.” The Board recommends that, if an intersection is projected to fail the applicable LATR standard, its mitigation is prioritized as follows:

- 1st priority: Transportation demand management (TDM) approaches to reduce vehicular demand.
- 2nd priority: Payment in lieu of mitigation.
- 3rd priority: Intersection operational improvements.
- 4th (and last) priority: Roadway capacity improvements [including intersections].

Furthermore, the recommendation would allow the Board to exact a payment-in-lieu instead of requiring a traffic operations change or a roadway/intersection capacity improvement that would satisfy the Motor Vehicle System Adequacy Test if it was deemed to interfere with Vision Zero goals or any of the improvements required to satisfy the Bicycle, Pedestrian, Transit, or Safety System Adequacy Tests.

Under this proposed priority regime, it is unlikely that a developer would ever be required to make a master-planned roadway or intersection capacity improvement as a condition of subdivision approval. It would allow the developer merely to “pay and go” and *not* provide an adequate public facility. It also ignores the fact that in nearly all of the County, even by the time of buildout, one-half to three-quarters of peak-hour travelers will be driving (see the NADMS goals in part A of this staff report): for example, in Fairland/Colesville, 73% will be driving; Germantown, 73-75%; Olney, 78%. The percentage of those driving now, of course, are even higher. Giving short-shrift to traffic congestion relief short-changes the needs of most residents for which driving is the only reasonable travel option.

PHED Committee (and Council staff) recommendation (3-0): Delete Section TL5 entirely, and instead revise the text in Section TL2.2 to read as follows:

TL2.2 Motor Vehicle System Adequacy

To achieve an approximately equivalent transportation level of service in all areas of the county, greater vehicular traffic congestion is permitted in policy areas with greater transit accessibility and usage. For motor vehicle adequacy, Table T2 shows the intersection level of service standards by policy area. The motor vehicle adequacy test will not be applied in Red Policy Areas and these areas will not be subject to LATR motor vehicle mitigation requirements. For intersections located within Orange policy areas, the Highway Capacity Manual (HCM) delay-based level of service standard applies to all study intersections. For intersections located within Yellow or Green policy areas, the Critical Lane Volume (CLV)

level of service standard applies to study intersection with a CLV of 1,350 or less and the HCM delay-based level of service standard applies to study intersections with a CLV of more than 1,350. The Planning Board may adopt administrative guidelines that allow use of Highway Capacity Manual 2010 methodologies and other analysis techniques consistent with guidance published by the Transportation Research Board.

Motor vehicle mitigation in the Orange, Yellow and Green policy areas is required for any intersection failing the HCM test (i.e., exhibiting delay exceeding the applicable policy area HCM delay standard). However, it is important to emphasize that safety for *all* roadway users is the top priority. The applicant must mitigate its impact on vehicle delay or down to the applicable policy area standard, whichever is less. In this context, transportation demand management is the first mitigation option to be pursued. Operational changes are the next priority. Roadway capacity improvements can be considered next but only if they do not negatively impact safety.

Alternatively, if the Planning Board and MCDOT agree that constructing all or part of this requirement may not be practicable or desirable due to unattainable right-of-way, an existing CIP project, or because it creates conditions that adversely impact pedestrian or bicycle safety or the results of the other LATR tests, an applicant may meet this requirement with a mitigation payment to MCDOT that is reasonably related to MCDOT’s estimated cost of constructing the required facilities. These funds must be used by MCDOT for transportation demand management actions, roadway operational changes or roadway capacity improvements within the same policy area, or—for an Orange town center policy area—either in that area or an adjacent one, unless the applicant agrees otherwise.

The scope of the motor vehicle adequacy test is based on the size of the project and the number of peak-hour vehicle trips generated by the project. Each LATR motor vehicle study must examine, at a minimum, the number of signalized intersections identified in Table T1, unless the Planning Board affirmatively finds that special circumstances warrant a more limited study.

Table T1. Motor Vehicle and Safety System LATR Scoping

Maximum Peak-Hour Vehicle Trips Generated	Minimum Signalized Intersections in Each Direction
< 250	1
250 – 749	2
750 – 1,249	3
1,250 – 1,749	4
1,750 – 2,249	5
2,250 – 2,749	6
>2,750	7

9. *Temporary exemption of biohealth facilities from LATR requirements.* Committee Chair Riemer proposes exempting biohealth/life sciences facilities from the LATR tests for five years after the effective date of the SSP, with the further requirement that any application for a building permit under this exemption must be filed within three years of approval of a preliminary plan or site plan. His purpose is to allow bioscience facilities, many of which are crucial to the effort to suppress the COVID-19 virus, to build or expand more quickly (©48-49). A related article is on ©50-52.

The Executive agrees that while some SSP requirements may be counterproductive, he would not waive the LATR tests without an alternative plan in place. At this writing the Planning Board has not yet weighed in.

The positive impact of the proposal is that it would speed approvals for new and expanded bioscience facilities without expending the cost and time to prepare and review traffic studies. The negative impact would be the degree to which the traffic from the new or expanded bioscience facilities will incrementally impact congestion at nearby intersections, and the degree to which potential required improvements under the Bicycle, Transit, Pedestrian, and Safety Adequacy Tests would be foregone. Without knowing the size and location of these new or expanded facilities it is impossible to estimate these impacts. However, while bioscience is an important sector of the local economy, it is nonetheless not a large enough presence so that exempting bioscience facilities from LATR will make a significant difference to the transportation network.

The provision needs a definition of a biohealth/life sciences facility. A ready description is the impact tax law’s definition of bioscience facility (County Code Section 52-39):

Bioscience facility means any biological research and development or manufacturing facility that substantially involves research, development or manufacturing of:

- (1) biologically active molecules,
- (2) devices that employ or affect biological processes,
- (3) devices and software for production or management of specific biological information, or
- (4) products or materials that purify or handle biologically active products.

Another consideration is the length of this temporary exemption. Council staff believes that the exemption should sunset in four years, when the next full SSP (2024-2028) becomes effective. The Draft 2024-2028 SSP would evaluate the impact and effectiveness of the exemption, which could lead to the conclusion that it either be extended, be extended with different conditions, or expire.

PHED Committee (and Council staff) recommendation (3-0): Approve this temporary LATR exemption, using the impact tax definition of bioscience facility as a proxy for a biohealth/life sciences facility, sunsetting the exemption after four years instead of five, and using the same January 1, 2021 effective date recommended for the full 2020-2024 SSP. Thus, the text in the SSP resolution would read as follows:

TL2.6 Temporary Suspension for [Biohealth / Life Sciences] Bioscience Facilities

The Local Area Transportation Review (section TL2) requirements of the Subdivision Staging Policy must not apply to a development or a portion of a development where:

- (a) the primary use is [biohealth or life sciences] for bioscience facilities, as defined in Section 52-39 of the County Code; and
- (b) an application for preliminary plan, site plan, or building permit that would otherwise require a finding of Adequate Public Facilities is approved after January 1, 2021 and before January 1, 2025; and

(c) an application for building permit is filed within 3 years after the approval of [the application] any required preliminary plan or site plan.

H. Amendment to transportation impact tax credit provision. If a development constructs added capacity on a County road, it is eligible for a dollar-for-dollar credit against that development’s transportation impact tax. For decades, the County has interpreted added capacity as meaning additional through or turning lanes. In the past, some developers have claimed that widening a road to a larger cross-section, such as changing a narrow two-lane road to wider curb-and-gutter cross-section (and, perhaps, parking lanes), constitutes added capacity, but DOT has consistently rejected these claims.

Recently a Cabin Branch developer in Clarksburg requested credits for the reconstruction of West Old Baltimore Road, including widening the roadway from a two-lane 20-foot wide roadway (a typical country road width) to a two-lane 24-foot wide roadway (a standard suburban cross-section), a sidewalk, bike lanes, and turning lanes at intersections. DOT was willing to grant dollar-for-dollar credit for all these elements except for the widening from 20 feet to 24 feet. However, in a recent court case a judge interpreted the impact tax law in favor of the developer, and the result was approval of a further credit valued at about \$5.5 million. This means that resources for the County’s CIP are diminished by \$5.5 million.

To prevent a recurring claim by other developers, the Executive and DOT propose the following amendment:

Sec. 52-39. Definitions.

In this Article the following terms have the following meanings:

Additional capacity means a new road, [widening an existing road], adding an additional lane or turn lane to an existing road, or another transportation improvement that:

- (1) increases the maximum theoretical volume of traffic that a road or intersection can accommodate, or implements or improves transit, pedestrian and bike facilities or access to non-auto modes of travel; and
- (2) is classified as a minor arterial, arterial, parkway, major highway, controlled major highway, or freeway in the County’s Master Plan of Highways, or is similarly classified by a municipality. The Director of Transportation may find that a specified business district street or industrial street also provides additional capacity as defined in this provision.

Additional capacity is sometimes referred to as added “highway capacity,” “transportation capacity,” or “intersection capacity”.

* * *

Sec. 52-50. Use of impact tax funds.

Impact tax funds may be used for any:

- (a) new road[, widening of an existing road,] or total reconstruction of all or part of an existing road [required as part of widening of an existing road,] that adds an additional lane or turn lane [highway or intersection capacity] or improves transit service or bicycle commuting, such as bus lanes or bike lanes;

* * *

PHED Committee (and Council staff) recommendation (3-0): Concur with these revisions. They will make clear what the County has always intended with this credit.

I. Amendment to transportation impact tax for agritourism. Councilmembers Riemer and Friedson are recommending amending Bill 38-20 to create a new non-residential rate category—agritourism—that would apply to buildings “in the Agricultural or Rural Residential Zones that is used exclusively for the storage or processing of an agricultural product to prepare the product for market.” The impact tax rate resolution, introduced on October 20, would add “agritourism-storage and processing” to the rate table and assign to it a \$0/sf rate for all four sets of policy areas (Red, Orange, Yellow, and Green). The Councilmembers are also interested in the Planning Board ultimately conducting a trip generation study of retail agritourism to determine whether establishing a unique retail agritourism rate would be appropriate. Their memo describing the proposal is on ©53-56. As this proposal has just been received, the GO Committee has not reviewed it.

An example of a development that would fall under Agritourism is Windridge Winery, which is building a \$2,190 square foot (sf) tasting room and a wine storage and processing facility of nearly 7,500 square feet. Under the current impact tax law, the transportation impact tax on the tasting room—which is classified as Retail—would be \$46,690, while the tax on the storage and processing facility—classified as Industrial—would be \$83,642, for a total tax of \$127,332. (©57-58). Under the proposal from Councilmembers Riemer and Friedson, the storage and processing portion of the development would have a \$0/sf rate, so the net impact tax would be \$46,690.

J. Recommendations not included in the Draft SSP resolution. The following are recommendations for which the Planning Board seeks concurrence, but they would not be in the resolution because they do not regulate subdivision approvals.

1. Designate a Vision Zero representative to the Development Review Committee (Rec 5.3, p. 70). The Development Review Committee (DRC) is an inter-agency task force comprised of representatives from public agencies and utilities such as WSSC, PEPCO, the State Highway Administration (SHA), MCPS, and the County Departments of Permitting Services, Environmental Protection, and Transportation. DRC members discuss the application with Planning staff at a regularly scheduled meeting. Each agency, providing comments for the DRC meeting, does so in writing. Planning staff ensures that those comments are included in the application file, along with a meeting summary and next steps. Planners then prepare recommendations that are presented to the Planning Board as part of the public hearing on the proposed plan.

The Planning Board recommends designating a Vision Zero representative on the DRC. (There is a parallel recommendation, 4.15, that proposes expanding MCPS’s role in the DRC.) DOT already fulfills this function implicitly for County roads, as does SHA for State roads. The Executive does not object to this provision, but he notes that it would have no substantial effect on DOT’s input on the DRC.

The composition of the DRC is specified in the Subdivision Ordinance, Section 50-4.2(A) (©59), not in the SSP. Should the Council wish to make DOT’s Vision Zero role in DRC more explicit, then it should introduce a bill amending Section 50-4.2(A)(2). To expand MCPS’s role on DRC to address student capacity issues (see the Planning Board’s Recommendation 4.15), then a bill will be needed anyway to amend Section 50-4.2(A)(9).

PHED Committee (and Council staff) recommendation (3-0): Ultimately amend Section 50-4.2(A) of the Subdivision Ordinance, as follows:

Section 50-4.2. Approval Procedure

A. Referral of plan. After accepting an application, the Director must send a copy to the Development Review Committee and other reviewing bodies, requesting each agency to submit a recommendation concerning the plan. The Director must send copies, as need, to:

...

2. the Department of Transportation, for roads, streets, intersection locations, site access, sight distances, traffic calming, paths, pedestrian and bicycle facilities (including bike share), parking, transit facilities, transportation demand management elements, and storm drainage within County-maintained rights -of-way and easements, with all reviews consistent with the objective to achieve Vision Zero goals;

2. Continue producing the Travel Monitoring Report (Rec. 5.10, p. 79). Since 2004, Planning staff has prepared regular analyses (under different titles) that document recent travel conditions and trends in the County. It was initiated on the request of former PHED Chair Nancy Floreen, who believed it important not just to understand the longer-term forecasts of travel in master plans, but what was happening on the ground currently. Over the years it has proven to be a useful report, especially in identifying congestion problems and accessibility issues that can be addressed with short-term solutions.

The Planning Board recommends continuing to produce the report biennially. The Executive concurs. **PHED Committee (and Council staff) recommendation (2-0): Councilmembers Riemer and Friedson concur with the Planning Board.**

3. Policy area review in master plans (Recs. 5.11-5.15, pp. 81-85). For at least three decades, draft master and sector plans have been evaluated to determine whether the traffic from the proposed buildout land use is in balance with the proposed transportation network and services at buildout. The evaluation has matched the SSP test, except for the time-frame: instead of the 6-year forecast of traffic, the master plan analyses use buildout as the time-frame. Because the SSP traffic test has evaluated intersection performance, so has the master plan test in more recent years.

The Planning Board is now recommending a series of tests that would examine the land use/transportation balance at the policy area level. The Executive's initial reaction is that the Planning Board's proposed metrics are insufficient. Others have weighed in as well.

Because these proposals are for reviews of master plans and not subdivisions, they are not proposed to be included in the SSP, which must be adopted by November 15. However, this is an important issue that should be explored and resolved by the Council before the next major draft master or sector plan is transmitted. The matter deserves an in-depth review and deliberation by the PHED Committee, but it does not need to be done in the next several weeks.

PHED Committee (and Council staff) recommendation (2-0): Councilmembers Riemer and Friedson recommend setting aside this issue for now, but plan on returning to it later this fall or winter. The Committee worksession has been tentatively scheduled for December 9.

K. Renaming the Subdivision Staging Policy. Rec. 3.1 (p. 34) proposes changing the name of the Subdivision Staging Policy to the County Growth Policy. Reference to the County's Adequate Public Facilities Ordinance (APFO) can be found in Chapters 8, 50, and 59 of the County Code. Under various

sections of the code, the Planning Board is required to find that public facilities will be adequate to support and service an area of development (i.e., subdivision, site, etc.). Chapter 33A of the County Code lays out the purpose of the Subdivision Staging Policy (SSP) and its relation to the APFO. The SSP provides guidance to the Planning Board and other County agencies for the administration of the APFO. Essentially, the SSP defines infrastructure adequacy, how it is measured, and what is required of an applicant if public infrastructure cannot adequately support the proposed development.

According to the Draft SSP, Chapter 33A also states that the SSP is “an instrument that facilities [sic] and coordinates the use of the powers of government to limit or encourage growth and development.” Therefore, the SSP and related laws and regulations are intended to be about more than limiting development or ensuring adequate infrastructure. The Planning Board Draft asserts that the policy is expected to help guide the County’s growth to desired areas and desired forms and thus a name more apt for this document is the County Growth Policy. Furthermore, it states that the SSP/Growth Policy must be a tool that helps ensure growth comes in the form, amount, and locations we need and desire, and that a change in name will better identify the full scope of this policy and make it more understandable, and perhaps more relevant, for all stakeholders.

While this idea and perspective are inspiring, it is basically the exact thought process that led to the current name. The SSP or Growth Policy is not at all about the amount or location of growth. Zoning sets the maximum amount of growth (development) possible for any property, and master plans determine the location of growth through careful, thoughtful planning and community engagement and recommend zoning that is implemented via sectional map amendment.

The SSP/Growth Policy determines what “adequate” means, how it is measured and what happens when existing and planned infrastructure cannot adequately accommodate proposed development. That is it. The name was changed from Growth Policy to the Subdivision Staging Policy because many in the public have been confused about the policy’s actual scope. A decade ago, most of the Council’s public hearing testimonies on the Draft Growth Policy were from residents who were really addressing issues in the Draft White Flint Sector Plan, which was also under the Council’s review at the time.

Is “Subdivision Staging Policy” the best/most accurate name? As noted above, infrastructure adequacy is required not only for approval of a preliminary plan of subdivision but can also be required for approval of a site plan or building permit. The SSP/Growth Policy is really the set of rules for determining the adequacy of public facilities to accommodate proposed development. If calling it Growth Policy implies that, then the change seems reasonable, but if the motivation to change the name is to set an expectation that the policy actually determines the amount of growth (it does not; it affects the pace of development which at a point in time may seem like an amount of growth but it does not change the ultimate amount of growth/development that can be built) or the location of growth (the location of growth is planned through the master planning process and implemented through zoning/sectional map amendments), then that is misleading.

PHED Committee recommendation: Change the name from the Subdivision Staging Policy to the Growth and Infrastructure Policy. Note that any name change will require introduction and adoption of a separate bill.

Attachments:

City of Rockville letter	©1-3
City of Gaithersburg letter	©4-5
Location of King Buick property	©6
King Buick property conceptual site plan	©7
Shady Grove Policy Area and half-mile walkshed	©8
Rockville Town Center Policy Area and half-mile walkshed	©9
CM Friedson's proposal - discount transportation impact tax rates in Designated Growth Areas	©10-15
Map of Designated Growth Areas	©16
Westfield testimony	©17-18
Area of Rock Spring Master Plan west of I-270 West Spur	©19
Excerpt from Global LifeSci testimony	©20
NADMS goals in existing master plans	©21
Proposed NADMS goals where goals do not now exist	©22
Pedestrian Level of Comfort (PLOC) methodology	©23-47
Councilmember Riemer's proposal temporarily suspend LATR for bio/life science facilities	©48-49
Article about bioscience expansion	©50-52
Councilmembers Riemer and Friedson proposal for an agritourism use transportation impact tax	©53-56
Department of Permitting Services letter re Windridge Winery	©57-58
Development Review Committee text in County Code Chapter 50	©59
Memo from Department of Housing and Community Affairs	©60

October 27, 2020



City of Rockville
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240-314-5000
TTY 240-314-8137

The Honorable President Sidney Katz and County Councilmembers
Montgomery County Council
100 Maryland Avenue
Rockville, Maryland 20850

Dear President Katz and members of County Council,

At its October 26th meeting, the Mayor and Council continued the review of the latest recommendations regarding the Montgomery County Draft 2020/2024 County Growth Policy (CGP), and directed me to provide their additional feedback, which is documented below. This letter supplements the City's letters submitted to you on September 15th and October 20th addressing this matter.

Recommendation to Change the Orange Transportation Policy Designation to the Red Designation for a Property Within the City Limits - The City received a request from EYA's representative, Bob Youngentob, for the Mayor and Council to recommend that the County Council change the proposed transportation policy area for a property currently in the city limits. The 10-acre property is adjacent to the King Buick site on MD 355 and is currently designated within the Orange Transportation Policy Area (see Map). Last evening, the Mayor and Council unanimously voted to recommend that the County Council change the designation of the 10-acre property within the city to the Red Transportation Policy Area. Thus, upon annexation, both properties need to be designated for the Red Transportation Policy Area.

The Mayor and Council desire for the King Buick site within the County to be annexed and developed comprehensively with the adjacent property in the city. The property currently included in the Orange policy area is appropriate to designate for the Red policy area, since it is closer to the Shady Grove Metro station than are other designated Red policy area properties. The King Buick property that is in the County should be retained in the Red policy area, should it be annexed into Rockville. In addition, the reduced transportation impact tax is needed for the project to move forward from an economic feasibility perspective.

Recommendation to Support Key Points Within County Councilmember Jawando's October 4th Memo on Subdivision Staging Policy Amendments (see enclosure) – The Mayor and Council unanimously supported the following items included in County Councilmember Jawando's memo:

- The need to do more to support overcrowded schools and other infrastructure in order to incentivize the kinds of development that will address our missing middle family housing crisis.

MAYOR
Bridget Donnell Newton

COUNCIL
Monique Ashton
Beryl L. Feinberg
David Myles
Mark Pierzchala

CITY MANAGER
Robert DiSpirito

CITY CLERK/DIRECTOR OF
COUNCIL OPERATIONS
Sara Taylor-Ferrell

ACTING CITY ATTORNEY
Cynthia Walters

October 27, 2020

The Honorable President Sidney Katz and County Councilmembers

Page Two

- Implementing a Utilization Premium Payment (UPP) in areas with overcrowded schools below a utilization of 120%. Specifically, the Mayor and Council supported requiring UPP payments of 50% of impact taxes beginning at 105% capacity and doubling the UPP payment to 100% of the impact taxes, once the capacity has reached 120%. This action will bring in additional needed funds to help address overcrowding issues.
- The need to address the lack of two-and-three-bedroom units in our multi-family housing. Incentives, as recommended by Councilmember Jawando, are needed to address our limited missing middle family housing stock. Discounted impact taxes should be used to further our commitment to providing more housing options for families by incentivizing increases in the number of two-and-three-bedroom units.

Recommendation Not to Apply Reduced Transportation Impact Taxes Within Designated Desired Growth and Investment Areas within the City of Rockville - The City received a request from County staff to review County Councilmember Friedson's proposal to reduce the transportation impact tax rate by 40% within designated Growth and Investment Areas. The Mayor and Council concurred with staff to not support this reduction in transportation impact taxes in these areas within the city. Rockville does not have sufficient information and has not performed a thorough evaluation to support a significant change such as this. The City needs to know if this discount in transportation impact taxes is needed and will result in enough development to off-set the loss in transportation funds through additional tax revenue. The proposed discount would result in a loss of millions of dollars in future revenue for City transportation projects.

Reemphasize the Mayor and Council's Recommendations in the enclosed October 20th Letter – this letter supplements the October 20th letter and the Mayor and Council want to emphasize the following:

- *Eliminating Schools and Transportation Impact Fees Exemptions Within Rockville's Opportunity Zones or, if the County Council does not take this action, then provide a "grandfathering" clause for project plans and other developments that have been approved by the Mayor and Council of Rockville prior to the adoption of the County Growth Policy. Without this grandfathering clause, the exemption would apply to our recently-approved project plan for Twinbrook Quarter. With the County's proposal to exempt properties in Opportunity Zones from the Transportation Impact Tax, the City would lose this same \$2.5 million in Phase I alone that could be used to help pay for needed transportation-related projects in the City of Rockville.*
- *Ensuring Future Funding to Address School Capacity and Needed Upgrades to Existing Schools.*

October 27, 2020

The Honorable President Sidney Katz and County Councilmembers

Page Three

- *Addressing Affordable Housing through such things as providing incentives to increase this type of housing within new developments in Opportunity Zones and other areas with discounted impact taxes.*

On behalf of our Mayor and Council, I appreciate your continued consideration to make the requested changes to the County's Growth Policy. The Mayor and Council of Rockville are scheduled to again discuss the proposed County Growth Policy at their November 2nd meeting to consider providing additional feedback. If you have questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert DiSpirito". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Robert DiSpirito
City Manager

cc: Rockville Mayor and Council
Tim Chesnutt, Acting Deputy City Manager
Ricky Barker, Planning and Development Services Director
Craig Simoneau, Public Works Director
Cindy Walters, Acting City Attorney
Linda Moran, Assistant to the City Manager
Sara Taylor-Ferrell, City Clerk/Director of Council Operations



October 28, 2020

The Honorable Sidney A. Katz
Montgomery County Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

Dear President Katz:

On behalf of the Gaithersburg City Council, I would like to express our appreciation to the County Council for the comprehensive and thoughtful review of the 2020-2024 Subdivision Staging Policy (SSP) and the associated tax bills throughout the committee process. Recognizing the substantial changes in the demographic and development patterns that have occurred in the County over the last three decades, the Planning Board proposed an SSP that reflects a significant departure from the principles of prior plans. Even in the most normal times, we understand and appreciate the difficult task of determining the best and most appropriate policies for an area as expansive and diverse as Montgomery County, and recognize that the current economic and public health crisis has added another layer of complexity.

In my comments on November 15, 2020, the City Council and I suggested the Impact Tax Bill (38-30), Sections 52-41 and 52-54, include language regarding the Enterprise Zones and Opportunity Zones. Namely, that those boundaries remain valid during the entire 4 years of the SSP Implementation period (2020-2024), even if these programs are eliminated by the State or Federal Government during that period.

One of the Planning Board's original recommendations was to reduce the tax on *Desired Growth and Investment Areas (Activity Centers)* and change the school funding calculation. In order to offset the loss in revenue, an increase in the recordation tax was necessary to generate sufficient funding. During the recent Government Operations Committee meeting there was a recommendation to eliminate discounting the school impact taxes for these areas. However, it is our understanding that Councilmember Friedson has proposed an alternative recommendation that would provide a 40% discount on the transportation impact tax, rather than discounting the school impact tax. A reduction in the transportation impact tax would help drive development to the *Activity Centers* and continue to encourage a mix of residential and non-residential uses. Therefore, we respectfully request your support for Councilmember Friedson's proposal.

If the Council ultimately determines that increasing the Recordation Tax is necessary, we would like to reiterate our previous request that the County enter into a MOU with the City that would allow a portion of the Recordation Tax to be allocated to the City's Housing Initiative Fund, which is our mechanism for building affordable housing stock within the City.

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MAYOR
Jud Ashman

COUNCIL MEMBERS
Neil Harris
Laurie-Anne Sayles
Michael A. Sesma
Ryan Spiegel
Robert T. Wu

CITY MANAGER
Tanisha R. Briley



Finally, we request that the Council include a provision in the Impact Tax Bill, Section 52-50, which would allow more flexibility in the use of the Transportation Impact Tax funds for such things as vision zero initiatives and safety improvements. Such a provision would help the County achieve its Vision Zero goals and take a holistic view of all modes of transportation.

Thanks for your consideration. Please do not hesitate to contact me with any questions or for further discussion about the concerns we have outlined. We look forward to continuing to work with you throughout this process.

Sincerely,

Jud Ashman
Mayor

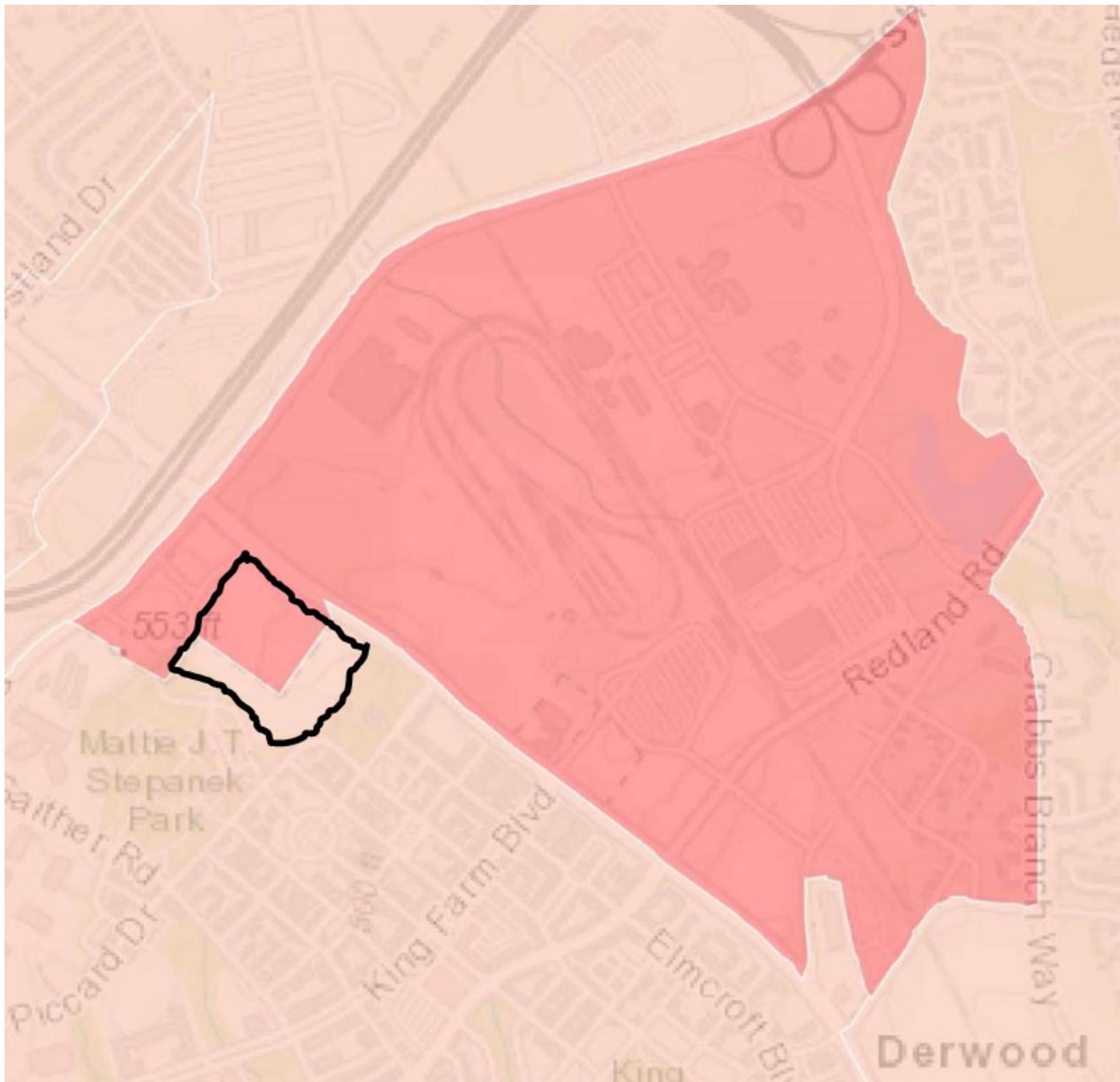
Cc: County Council members
Glenn Orlin

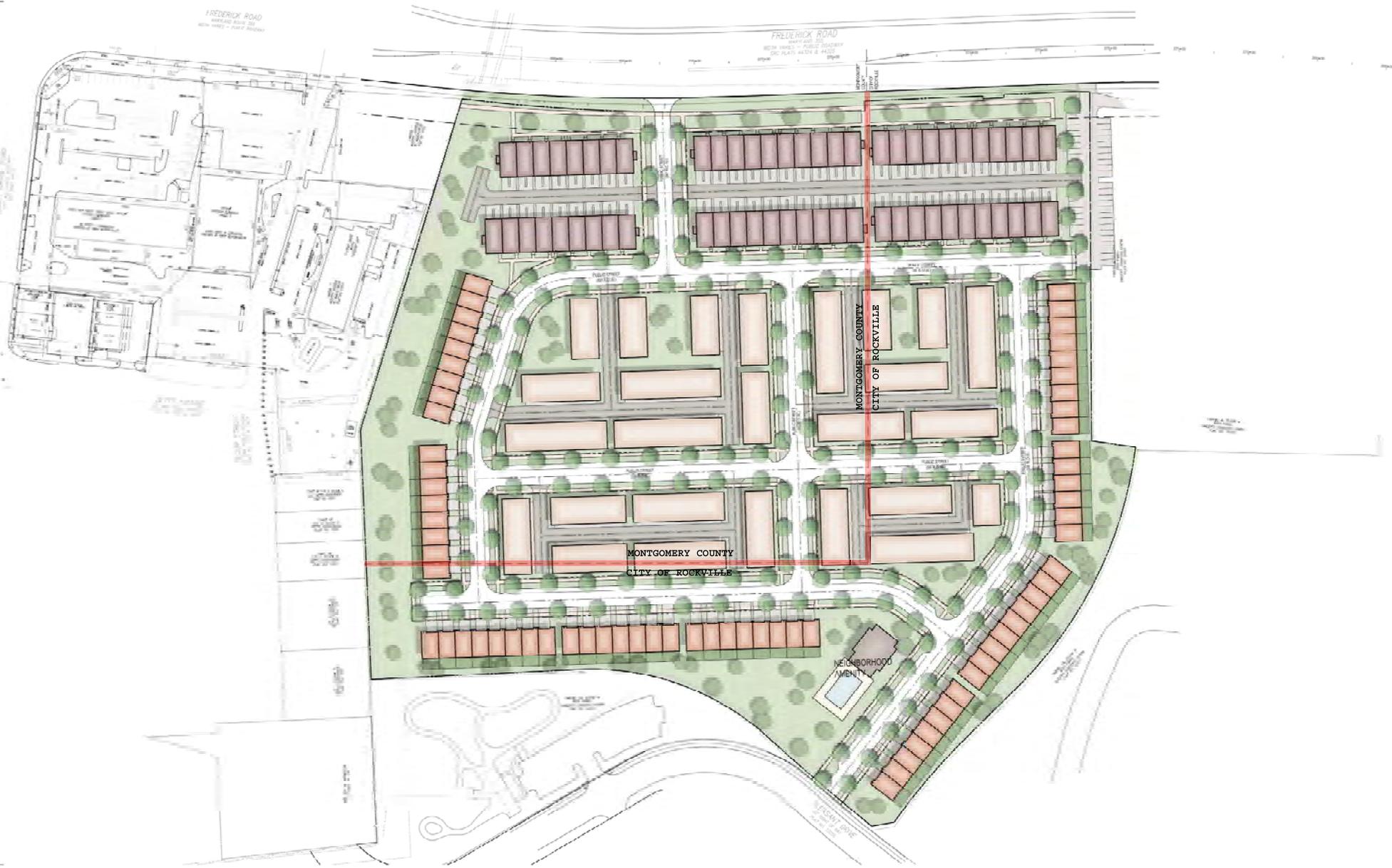
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MAYOR
Jud Ashman

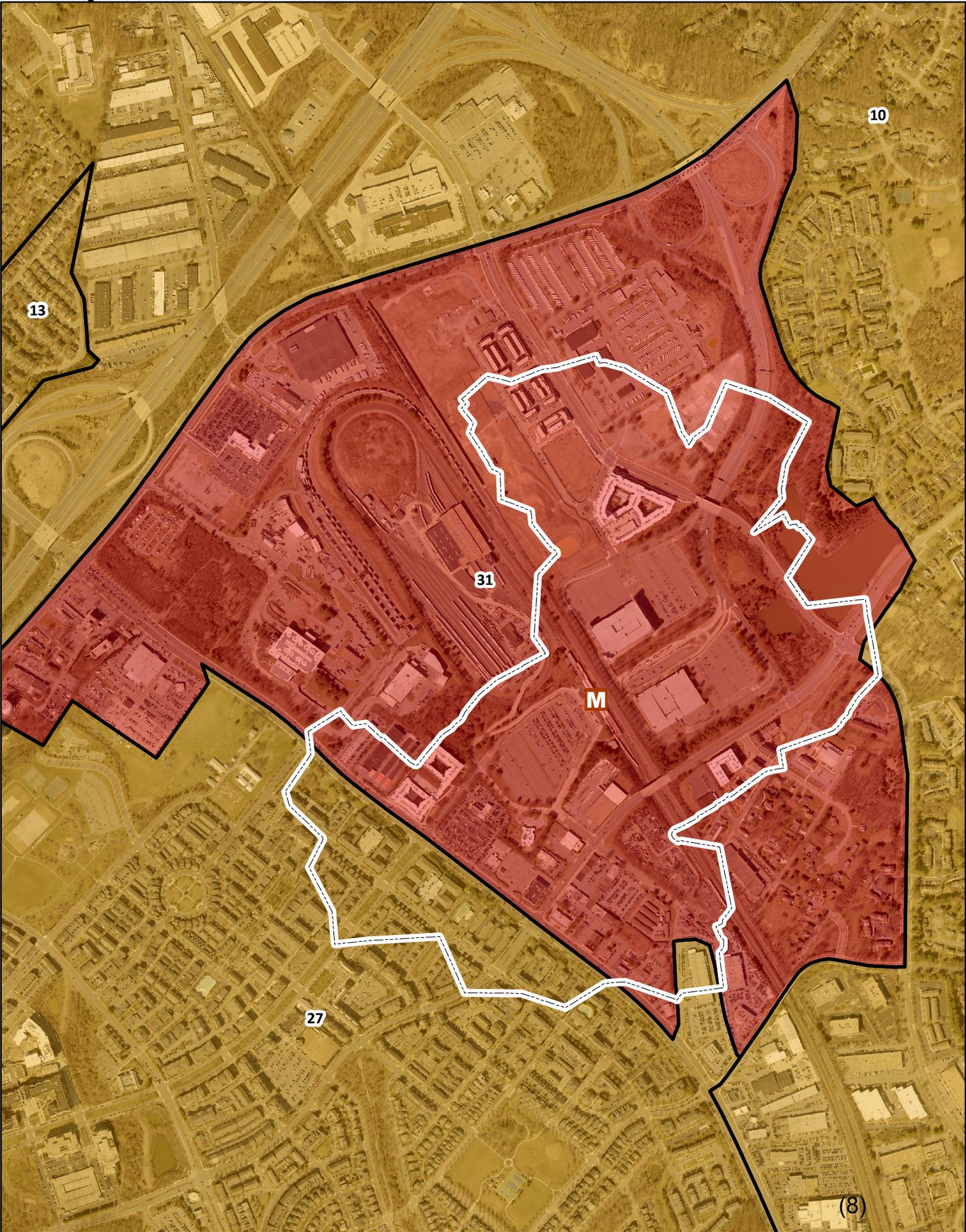
COUNCIL MEMBERS
Neil Harris
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Ryan Spiegel
Robert T. Wu

CITY MANAGER
Tanisha R. Briley





Shady Grove



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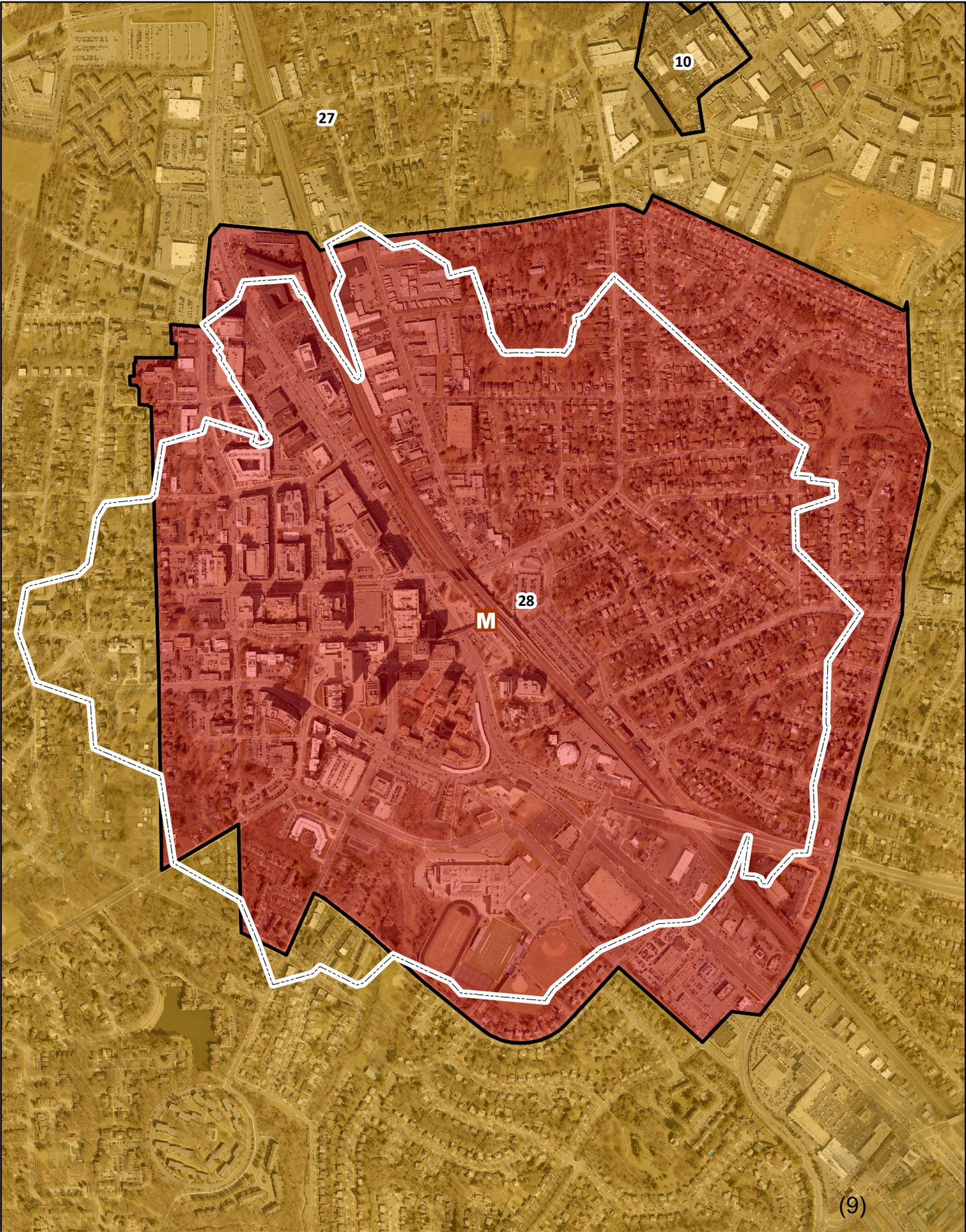
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MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

ANDREW FRIEDSON
COUNCILMEMBER
DISTRICT 1

MEMORANDUM

October 26, 2020

TO: Councilmembers
FROM: Councilmember Andrew Friedson
SUBJECT: Desired Growth & Investment Areas

As we work our way through the Planning Board's recommended FY 2020-2024 Subdivision Staging Policy, one of the most important tasks before us is to set what we deem to be the most appropriate transportation and school impact tax rates. Like other Councils before us, we are examining the rationales behind previously approved Subdivision Staging Policies and reviewing updated data and refined enrollment trends in the context of today's land use patterns and best practices for transit-oriented, sustainable growth. The question that guides our work is not will we grow but, rather, how we will grow. And that question must be answered very intentionally and based on sound land use policy.

The Planning Board transmitted their recommendations after much deliberation, careful thought, and public input. They got many things right including refined student generation rates using geographic data, strengthened pedestrian and bike transportation tests, a new requirement for Vision Zero impact statements, and updated red policy areas incorporating future Purple Line station areas.

As you know, the Planning Board also recommended the establishment of *Desired Growth and Investment Areas*, with the goal of promoting and incentivizing smart growth. I agree with the Planning Board's goal with respect to this recommendation and share the sentiment that our county must grow in the most sustainable manner possible. However, I do not think discounting school impact taxes in these areas was the appropriate vehicle to advance our smart growth objectives. The cost of a student seat does not vary by geographical location, only the student generation rates do. The Planning Board successfully recommended rates based upon the most refined data available regarding student generation rates by housing type and geographic area of the county.

The application of *Desired Growth and Investment areas* has a direct nexus to transportation impact taxes for one very simple reason: Development in areas closer to significant transportation infrastructure



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

ANDREW FRIEDSON
COUNCILMEMBER
DISTRICT 1

places far less of a burden on our transportation network. Residents in such areas are much more likely to walk, bike, and/or use transit as opposed to the 73-78 percent who travel by auto in yellow and green policy areas. The 2016 creation of red, orange, yellow, and green transportation policy areas served as a solid construct for better aligning our transportation impact tax rates to actual impacts of new development. However, I believe this construct could be even better refined and as such, am proposing creating new *Desired Growth and Investment Areas* as part of the transportation policy areas and setting the locational adjustment factor at 0.6. The red policy areas that overlap with the Desired Growth and Investment Areas would remain unchanged at a locational adjustment factor of 0.4. This adjustment would better reflect access to existing transit infrastructure along our major corridors and in our activity centers and help create the conditions needed to ensure the success of future transit projects like the planned countywide BRT network, Corridor Cities Transitway, and additional bus routes by encouraging the development needed to support such infrastructure.

Additional information pertaining to this proposal, including a chart showing the addition of the Desired Growth and Investment Area, is attached for your reference. I appreciate your consideration of this proposal and look forward to discussing it in one of our upcoming work sessions.

cc:

Casey Anderson, Chair, Planning Board
Gwen Wright, Director, Planning Department
Jason Sartori, Chief, Countywide Planning and Policy, Planning Department
Glenn Orlin, Council Staff Analyst
Pam Dunn, Council Staff Analyst
Bob Drummer, Council Attorney

Transportation Impact Tax Rate –

The 2016 SSP introduced two significant changes to the calculation of transportation impact taxes. The first change was the categorization of transportation policy areas into four distinct categories. For each policy area the observed Non-Auto Driver Mode Share (NADAMS) for work trips, current land use density of the policy area and forecasts of future land use density were recorded. Observing the relative grouping of policy areas with respect to current land use patterns, the prevalence of modes of travel other than the single occupant vehicle, and the planning vision for different parts of the County, four transportation policy area categories were created and defined as follows:

- Red Policy Areas are characterized by Down County Central Business Districts and Metro Station Policy Areas (MSPA) characterized by high-density development and the availability of premium transit service (i.e., Metrorail/MARC).
- Orange Policy Areas are characterized by corridor cities, town centers, and emerging Transit-Oriented Development (TOD) areas where premium transit service (i.e., Corridor Cities Transitway, Purple Line/Bus Rapid Transit) is planned.
- Yellow Policy Areas are characterized by lower density areas of the County characterized by mainly residential neighborhoods with community-serving commercial areas.
- Green Policy Areas include the County’s agricultural reserve and rural areas.

The transportation policy areas were then assigned to one of the four categories based on their relative characteristics. Below are the transportation policy areas under each category.

Table 1.

Transportation Policy Area Category			
Red	Orange	Yellow	Green
Bethesda CBD MSPA	Bethesda/Chevy Chase	Aspen Hill	Damascus
Friendship Heights MSPA	Burtonsville Town Center	Clarksburg	Rural East
Glenmont MSPA	Chevy Chase Lake	Cloverly	Rural West
Grosvenor MSPA	Clarksburg Town Center	Fairland/Colesville	
Rockville Town Center MSPA	Derwood	Germantown East	
Shady Grove MSPA	Gaithersburg City	Germantown West	
Silver Spring CBD MSPA	Germantown Town Center	Montgomery	
Twinbrook MSPA	Kensington/Wheaton	Village/Airpark	
Wheaton CBD MSPA	Long Branch	North Potomac	
White Flint MSPA	North Bethesda	Olney	
	R&D Village	Potomac	
	Rockville City		
	Silver Spring/Takoma Park		
	Takoma/Langlely		
	White Oak		

The other significant change to the calculation of transportation impact taxes was the creation of locational adjustment factors for each of the four policy area categories. Prior to 2016 there were three transportation policy area categories: Metro Station Policy Areas, Clarksburg, and everywhere in the County. And transportation impact tax rates were set such that the Metro Station Policy Area rate was approximately half the Countywide rate for both residential and commercial uses, while the Clarksburg

rate was approximately 33 percent higher for residential uses and about 16 percent higher for commercial uses.

In 2016, locational adjustment factors for each of the policy area categories were created. The adjustment factors for residential uses were calculated by comparing home-based work vehicle miles traveled within each policy area category to the countywide average. For commercial uses, locational adjustment factors were calculated by comparing home-based work non-auto drive mode shares for each policy area category to the countywide average.

The table below shows the relevant data from 2016 and adjustment factors recommended at the time by Planning staff.

Table 2. Residential and Commercial Locational Adjustment Factors.

Policy Area Category	RESIDENTIAL			COMMERCIAL		
	HBW VMT	Ratio to County Average	Adjustment Factor	HBW NADMS	Ratio to County Average	Adjustment Factor
County Average	11.45			32.6		
Red	4.27	37%	0.25	45.2	81%	0.75
Orange	9.01	79%	0.75	28.3	106%	1.00
Yellow	15.39	134%	1.25	16.6	124%	1.25
Green	25.84	226%	2.00	10.2	133%	1.25

In 2016, the base transportation impact tax rates were also updated using housing and job growth forecasts to estimate future trip generation and estimated transportation CIP expenditures over the forecast period. After evaluating the updated tax rates adjusted by the locational factors, the Council considered several options in its review of the 2016 SSP. During this review, a primary consideration was the impact of eliminating the Transportation Policy Area Review mitigation payment. After much deliberation, the Council set the factors for residential and commercial uses equal to each other, as follows:

- Red Policy Area impact taxes were set to 40% of the base rates.
- Orange Policy Area impact taxes were set equal to the base rates.
- Yellow and Green Policy Area impact taxes were both set to 125% of the base rates.

These changes resulted in transportation impact taxes for residential uses increasing in many areas. On the commercial side, compared to the Planning Board’s recommendations, the Council’s rates were set 5% lower in the Red Policy Areas and 20% higher in the Orange, Yellow and Green Policy Areas.

Since these rates took effect on March 1, 2017, the rates have twice been adjusted for inflation (on July 1, 2017 and July 1, 2019). The current rates are shown below in Table 3.

Table 3. Current Transportation Impact Tax Rates, Effective July 1, 2019.

Land Use	Red PA	Orange PA	Yellow PA	Green PA
Residential Uses				
SF Detached	\$7,838	\$19,591	\$24,490	\$24,490
SF Attached	\$6,413	\$16,030	\$20,038	\$20,038
MF Low-Rise	\$4,986	\$12,465	\$15,582	\$15,582
MF High-Rise	\$3,561	\$8,904	\$11,130	\$11,130
MF Senior	\$1,424	\$3,562	\$4,452	\$4,452

Commercial Uses				
Office	\$7.15	\$17.90	\$22.40	\$22.40
Industrial	\$3.60	\$8.90	\$11.20	\$11.20
Bioscience	\$0.00	\$0.00	\$0.00	\$0.00
Retail	\$6.35	\$16.00	\$19.95	\$19.95
Place of Worship	\$0.00	\$0.00	\$0.00	\$0.00
Private School	\$0.55	\$1.45	\$1.85	\$1.85
Hospital	\$0.00	\$0.00	\$0.00	\$0.00
Social Service Agencies	\$0.00	\$0.00	\$0.00	\$0.00
Other Non-Residential	\$3.60	\$8.90	\$11.20	\$11.20

In this SSP update, the Planning Board did not recommend changes to the transportation impact tax rates. Under what is before the Council at this time, the rates in Table 3 will remain in effect until they are updated again by the rate of inflation on July 1, 2021. Given changes the CIP since 2016, including changes in the estimated cost of providing transportation facilities, and updated housing and job growth forecasts, the July 2021 update should include a recalibration of the base rates and locational adjustment factors including updated data on vehicle miles traveled and Non-Auto Driver Mode Share to reflect the new policy area designations that have added new Red Policy Areas and modified the boundaries of others. All future biennial updates can use the standard rate of inflation adjustment.

However, regardless of the timing of the update, the Planning Board Draft provides an opportunity to consider a change to the transportation impact tax, although it was not presented exactly that way. In the Planning Board's Draft SSP, Recommendation 6.2 includes a proposed 40% school impact tax discount for development in Desired Growth and Investment Areas, citing the Montgomery County Housing Needs Assessment's observation that the number of housing cost burdened households¹ is rising within the county's transit corridors. The GO Committee did not support this recommendation because the lack of a connection to school costs. However, the motivation for the proposal is valid and an adjustment to the transportation impact tax provides a logical alternative.

Rather than providing a discount to the school impact tax, provide a discount to the transportation impact tax in the desired growth and investment areas. This will help encourage growth in these areas by helping to lower development costs which is not only consistent with smart and sustainable growth principles, it can help reduce the cost burden in these areas by both increasing the housing supply generally and increasing the amount of affordable housing, in addition to encouraging complementary commercial development that creates whole communities.

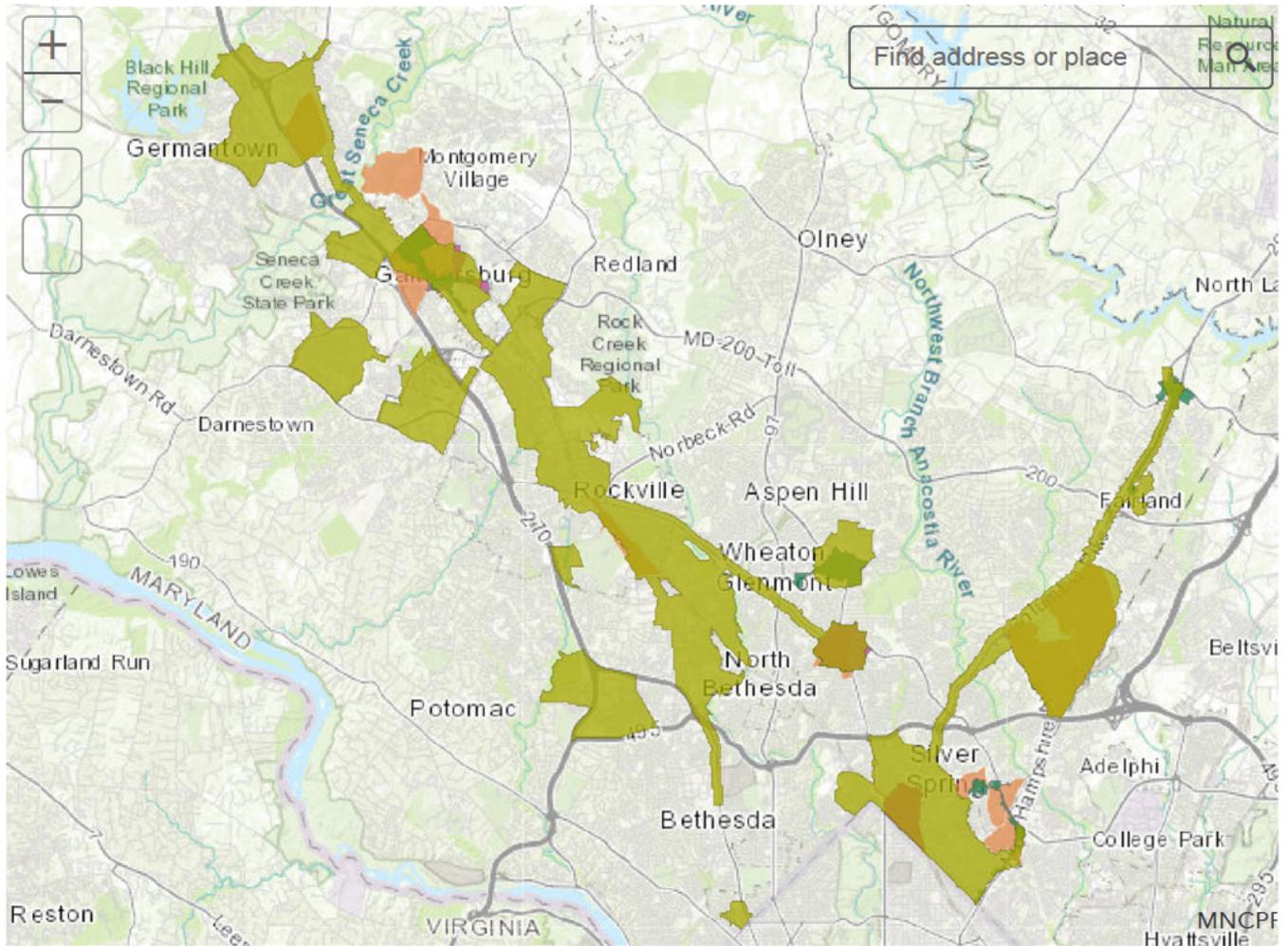
Below is a table showing the current transportation impact tax rates with an added rate for the desired growth and investment areas.

Table 4. Current Transportation Impact Tax Rates, effective July 1, 2019.

Land Use	Red PA	Desired Growth Areas	Orange PA	Yellow PA	Green PA
Locational Factors	0.4	0.6	1	1.25	1.25
Residential Uses					
SF Detached	\$7,838	\$11,755	\$19,591	\$24,490	\$24,490
SF Attached	\$6,413	\$9,618	\$16,030	\$20,038	\$20,038
MF Low-Rise	\$4,986	\$7,479	\$12,465	\$15,582	\$15,582

¹ Households who pay more than 30 percent of their income for housing. If you include transportation costs this percentage is closer to 35 percent.

MF High-Rise	\$3,561	\$5,342	\$8,904	\$11,130	\$11,130
MF Senior	\$1,424	\$2,137	\$3,562	\$4,452	\$4,452
Commercial Uses					
Office	\$7.15	\$10.75	\$17.90	\$22.40	\$22.40
Industrial	\$3.60	\$5.35	\$8.90	\$11.20	\$11.20
Bioscience	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Retail	\$6.35	\$9.60	\$16.00	\$19.95	\$19.95
Place of Worship	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Private School	\$0.55	\$0.85	\$1.45	\$1.85	\$1.85
Hospital	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Social Service Agencies	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Other Non-Residential	\$3.60	\$5.35	\$8.90	\$11.20	\$11.20



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Patricia A. Harris, Esquire
301-841-3832
paharris@lerchearly.com

September 10, 2020

BY ELECTRONIC MAIL

The Honorable Sidney Katz, President
and Members of the County Council
100 Maryland Avenue
Rockville, Maryland

Re: County Growth Policy – Transportation Policy Areas

Dear Council President Katz and Members of the Council:

We represent Unibail-Rodamco-Westfield (“Owner”), the owner of Westfield Montgomery Mall (“Property”). The Owner appreciates the efforts of Park and Planning Staff and the Montgomery County Planning Board (“Planning Board”) in drafting the County Growth Policy and generally supports the Planning Board’s draft County Growth Policy (“Draft CGP”). In connection with your review of the Draft CGP, we respectfully request your consideration to re-designate the policy area within which the Property is located to better reflect the urbanized, mixed-use transit orientation of the Property. This can be accomplished simply by revising the Draft CGP to re-designate the Property as within the Orange Policy Area as opposed to the Yellow Policy Area. The Property is located within the *2017 Approved and Adopted Rock Spring Sector Plan* (“Sector Plan”) area.¹

Like the current 2016-2020 Subdivision Staging Policy (“2016-2020 SSP”), the Draft CGP assigns areas of the County to Red, Orange, Yellow, and Green transportation policy areas. It is the intent of the Draft CGP to assign transportation policy areas based on the intensity of development and the availability of mass transit. Specifically, Orange Policy Areas are intended for “[c]orridor cities, town centers, and emerging Transit-Oriented Development (TOD) areas where premium transit service (i.e., Corridor Cities Transitway, Purple Line/bus rapid transit) is planned.” (Draft CGP p. 64) Yellow Policy Areas are intended for “[l]ow-density areas of the county characterized by mainly residential neighborhoods with community-serving commercial areas.” (Draft CGP p. 64)

The 2016-2020 SSP and the Draft CGP transportation policy areas are derived from geographic policy areas established in the 1986 Annual Growth Policy (the SSP’s predecessor). These policy areas are more than 30 years old and quite large in some cases. Thus, they do not account for emergent nuances in transportation and development patterns. Based on a designation from more than 30 years ago, the Property is located in the Potomac Policy Area, which stretches from the County’s southwestern boundary to I-270. The 2016-2020 SSP assigned the entire Potomac Policy Area to the Yellow Policy Area. Meanwhile, the North Bethesda Policy Area to the east and across I-270, in which the vast majority of the properties located within the Rock Spring Sector Plan area are located, is assigned to the Orange Policy Area.

Both the County Council and the Planning Board envisioned the Rock Spring Sector Plan area as a cohesive, unified planning area, and did not draw a distinction between those sites located to the east or

¹ We note that there are five other properties located north of Westlake Terrace and east of Westlake Drive that are also located within the Rock Spring Sector Plan area that are designated as Yellow Policy Areas.

west of I-270. The Sector Plan recognizes that the entire Sector Plan area, including the Property, is part of an emerging higher density mixed-use center that is increasingly connected by mass transit. This vision is more consistent with the Orange Policy Area than the Yellow Policy Area. Specifically, the Sector Plan envisions the entire plan area as “an employment center that includes new housing, where appropriate, with concentrations of retail.” Sector Plan at p. 17. The Property itself is recommended to be a “mixed-use regional market place.” Sector Plan at p.18. In addition to this cohesive land use vision, the Sector Plan’s transportation recommendations include a bus rapid transit (“BRT”) line running from the Property to Grosvenor-Strathmore Metro Station. This is in addition to the existing Transit Center currently located in the northeast corner of the Property which serves seven bus lines daily, including two to the Grosvenor-Strathmore Metro Station.. As previously explained, Orange Policy Areas are intended for emerging TOD areas with premium transit such as BRT, while Yellow Policy Areas are for lower density residential areas. Thus, the Orange Policy area is more consistent with the Sector Plan’s goals, objectives and recommendations and should be assigned to the entire Rock Spring Sector Plan area, including the Property.

The Draft CGP’s recommendation that the properties west of I-270 be in the Yellow Policy Area and the properties east of I-270 be in the Orange Policy Area appears to be a vestige from the initial policy area designation and did not involve any analysis or review. As a general rule, areas under a single master plan are not split between transportation policy areas unless the areas are subject to separate, distinct land use and development policies (e.g. the 2009 *Germantown Employment Area Sector Plan* is split between the Yellow and Orange Policy Areas with the higher-density, more transit-oriented town center being an Orange Policy Area; the 2006 *Shady Grove Sector Plan* area is split between the Orange and Red Policy areas with the area surrounding Shady Grove Metro Station being in the Red Policy Area). In the case of the Property, the entire Sector Plan area is designated as a higher density mixed-use employment center. In fact, the Property is located on the “central spine” of the Sector Plan area (Westlake Terrace, Fernwood Road and Rock Spring Drive) and is the location of the Sector Plan’s primary transit hub. There simply is no justification for assigning two separate policy areas to the Sector Plan area; the Orange Policy Area should be consistently applied throughout the entire Sector Plan area.

The Planning Board’s recent approval of mixed-use development on the Property further reaffirms the appropriateness of the Orange Policy area designation. More specifically, in July 2020 the Planning Board approved development on the Property to accommodate 1,737,801 square feet of retail (a portion of which is the existing retail shopping mall), 717 dwelling units, and a 261 room hotel (“Project”). This level of development is wholly inconsistent with the Property’s Yellow Policy Area designation which is intended for “[l]ow-density areas of the county characterized by mainly residential neighborhoods with community-serving commercial areas.” The Property will be redeveloped into a dynamic mixed-use center, more consistent with the Orange Policy Area.

For the above-stated reasons, the Owner respectfully requests that the Property be placed in the Orange Policy Area, as it better reflects the Property’s mixed-use, transit-oriented future. The Owner appreciates this opportunity to provide its comments on the proposed County Growth Policy.

Sincerely,



Patricia A. Harris

cc: Mr. Jason Satori
Mr. Eric Graye
Mr. Jim Agliata

7:06 AM Sun Sep 13

40%

Montgomery County Zoning (last amended: January 21, 2020 H-130 (LMA))

Address/Place Name Search:

Details Layers Info Dev. Info Print Measure

Property Info	
Location:	Latitude: 39.0237 Longitude: -77.1440
ACCT #:	03379217
Parcel, Lot, Block:	H861, N/A, N/A
Address:	10341 WESTLAKE DR BETHESDA, 20817
Legal Description:	PT PAR P LAKEVIEW 1B688/296
Landuse:	Retail
WSSC Grid:	213NR07
Zoning Info	
Zone:	GR-1.5 H-45
Overlay Zone:	Regional Shopping Center Overlay
TDR Overlay:	N/A
Allowable Use Table:	View PDF
Map Amendments:	G-247 G-800 G-955 H-126
Other Legislative Districts	
Septic Tier:	Tier 1: Sewer existing
Water/Sewer Categories:	W-1 / S-1
Municipality:	N/A
Master Plan:	ROCK SPRING SECTOR PLAN
Historic Site/District:	N/A
Parking District:	N/A
Urban District:	N/A
Central Business District:	N/A
Social Protection Area:	N/A
Enterprise Zone:	N/A
Arts & Entertainment District:	N/A
Social Tax District:	N/A
Key/Pedestrian Priority Area:	Montgomery Mall
Urban Renewal Area:	N/A
Metro Station Policy Area:	N/A
Priority Funding Area:	Yes

[Click Here](#) to see a list of Development Plans that exist at the selected location

1. **Create a new “Purple” Transportation Policy Area for Transportation Impact Surtax Purposes**

- a. The “Red” Transportation Policy Area should be reserved exclusively for the County’s Metro Station and Central Business Districts (as was originally intended). BUT, for sound public policy reasons, the County Council may wish to designate certain areas to have the same Transportation Impact Surtax Rates as Red Policy Areas (although those areas may not technically be in a Metro Station or Central Business District). A new “Purple” Transportation Policy Area could serve that purpose.
- b. Such was the Council’s intention for the White Oak Science Gateway (“WOSG”) Master Plan in 2014 (before the County adopted color-coded Transportation Policy Areas). Specifically, the Council stated in the WOSG Master Plan on page 54 that the WOSG Master Plan area should:

“...be considered an **Economic Opportunity Center** similar in form and function to areas around a **Metro Station** or **central business district** with an ultimately **urban character**, and that the roadway and transit adequacy standards used in the Subdivision Staging Policy for areas that are currently designated as Urban be applied to the [WOSG Master] Plan area.” (Emphasis added.)¹

- c. For the same reasons the Council intended for the WOSG Master Plan area to be treated and taxed as if in a Red Transportation Policy Area, so too the Council may now want to include the **Purple Line Stations** recommended by the Planning Board to be taxed as if in the Red Policy Area. But, because those Purple Line Stations are not technically at a Metro Station or a Central Business District, they too could be classified in this new “Purple” Transportation Policy Area.
- d. Similarly, for future Master Plans, if the Council explicitly determines that such area constitutes an “**Economic Opportunity Center similar in form and function to areas around a Metro Station or central business district with an ultimately urban character**” such a newly created “Purple” Transportation Policy Area would be another policy tool the Council could use to treat and tax such an area similar to a “Red” Policy area (although not technically in a Metro Station or Central Business District.”

¹ See Appendix B analysis showing the County Council in 2014 intended for the WOSG Master Plan area to be treated and taxed as if in a Metro Station or CBD --- and thus should have been treated and taxed as if in the Red category when the color-coded policy areas were later created (but was erroneously omitted) --- and why that error should be corrected now by including the WOSG Master Plan area in a new “Purple” Transportation Policy Area.

Table 1: Currently Established Policy Area NADMS Goals

PA	Master Plan/Sector Plan Area or TMD	NADMS Goal at Buildout	½ Mile from Metro or Purple Line?	Inside Beltway?
2	Bethesda TMD	55%	Yes	Yes
5	Chevy Chase Lake	49% residents; 36% employees	Yes	Yes
12	Friendship Heights	39%	Yes	Yes
15	Germantown Town Center	25% employees	No	No
25	Great Seneca Science Corridor	28% employees	No	No
26	Greater Shady Grove TMD	35% (transit) residents in SG MSPA; 25% residents elsewhere in SG Sector Plan area; 12.5% (transit) employees in SG Sector Plan area.		
31				
18	Grosvenor Strathmore Metro Area	50%	Yes	No
20	Long Branch Sector Plan	49% residents; 36% employees	Yes	Yes
	Lyttonsville Sector Plan Area	50%	Yes	Yes
22	North Bethesda TMD	30% residents; 39% employees	No	No
22	Rock Spring Master Plan	41% residents; 23 employees	No	No
32	Silver Spring TMD	50% employees	Yes	Yes
36	Wheaton CBD	30% employees	Yes	No
37	White Flint Sector Plan, Phase 1	51% residents; 50% employees	Yes	No
37	White Flint Sector Plan, Phase 2	51% residents; 50% employees 42% residents east of CSX tracks	Yes	No
38	White Oak (White Oak & Hillandale Centers)	25%	No	No
38	White Oak (Life Science/FDA Village Center)	30%	No	No

Table 2: 2020-2024 CGP-Recommended Policy Area NADMS Goals

PA	Master Plan/ Sector Plan Area	NADMS Goal at Buildout	½ Mile from Metro or Purple Line?	Inside Beltway?
39	Forest Glen MSPA	48% residents; 25% employees	Yes	No ¹
35	Twinbrook	45%	Yes	No
40	Lyttonsville/Woodside	50%	Yes	Yes
41	Manchester Place/Dale Drive	50%	Yes	Yes
34	Takoma/Langley	49% residents; 36% employees	Yes	Yes
17	Glenmont	30% employees	Yes	No
28	Rockville Town Center	N/A*	Yes	No
27	Rockville City	N/A*	No	No
13	Gaithersburg City	N/A*	No	No
4	Burtonsville Town Center	27% residents	No	No
14	Germantown East	28% residents	No	No
16	Germantown West	27% residents	No	No
7	Clarksburg Town Center	29% residents	No	No
6	Clarksburg	29% residents	No	No
25	North Potomac	27% residents	No	No
23	Potomac	29% residents	No	No
1	Aspen Hill	35% residents	No	No
10	Derwood	39% residents	No	No
8	Cloverly	23% residents	No	No
24	Olney	22% residents	No	No
11	Fairland/Colesville	27% residents	No	No
3	Bethesda/Chevy Chase	41% residents	No	Yes
33	Silver Spring/Takoma Park	48% residents	No	Yes
19	Kensington/Wheaton	40% residents	No	No

* The municipalities of Rockville and Gaithersburg administer their own AFPO and are exempt from the Bill 36-18 legislation.

¹ Metro station and northern portion of MSPA is located outside the Beltway, southern portion of MSPA is inside the Beltway.

Pedestrian Level of Comfort Methodology

Version 1.1

Montgomery County Planning Department

October 19, 2020

I. Introduction

When people walk (or when using a mobility device, roll) along pedestrian pathways, trails and roadways, they may experience varying levels of comfort. A quiet residential street with a 25-mile-per-hour speed limit, low motor vehicle traffic volumes, and pedestrian pathways separated from the road by trees creates a comfortable walking or rolling experience for most people. In contrast, a six-lane suburban highway with a 40-mile-per-hour speed limit and narrow pedestrian pathways directly adjacent to the street may be undesirable. Fewer people are likely to walk or roll in less comfortable environments, and for those who must, the experience is more uncomfortable than it might be with a different design. The Pedestrian Level of Comfort (PLOC) methodology captures how comfortable it is to walk and roll in different conditions in Montgomery County. A variety of pathway and crossing factors are considered to determine a comfort score for each crossing and pathway segment. The four main scores are: undesirable (score = 4), uncomfortable (score = 3), somewhat comfortable (score = 2), and very comfortable (score = 1). Half-point scores are also possible as certain contextual information becomes available. If an area receives a relatively poor score, changes may be needed to make it a place where more people will feel comfortable walking.

Not all factors that influence pedestrian comfort are included due to the lack of available data. However, some such factors can have outsized impacts on comfort (such as pedestrian and street lighting or the presence of a Leading Pedestrian Interval at crossings). Therefore, they are scored separately. As data for these additional factors become available, they will be integrated to provide a more complete analysis of the pathway or crossing. However, the basic PLOC score can be calculated in their absence.

“Comfort” as a concept should be thought of differently from “safety”. While safety will always be the bedrock principle of the transportation system, this analysis is a tool to create a pedestrian environment in Montgomery County that is more than safe – one that is enjoyable and comfortable for people of all ages. In situations where comfort and safety may appear to diverge, safety is paramount.

There are four main scoring tables: Pathway, No Pathway (where a pedestrian must share the road with vehicle traffic), Controlled Crossing and Uncontrolled Crossing. These four tables can be found later in this document. An additional table further assesses pathways and crossings on factors related to accessibility. This accessibility evaluation serves as a separate overlay to allow independent consideration of broader factors that impact pedestrian comfort as well as ADA compliance and access for all. Similarly, an additional crossing overlay table assesses crossing characteristics, such as the presence of a Leading Pedestrian Interval and crosswalk lighting standards.

II. Pathway Factors

A “pathway” is a place designated for pedestrians such as sidewalks, shared use paths and trails. “No pathway” describes a place where a pedestrian must share the road with motor vehicles. A variety of factors influence the ultimate PLOC score for a pathway or no-pathway segment. Pathway scores consider land use, pathway width, posted speed limit, pathway buffer width, pathway condition, on-street separation and traffic volume. Since traffic volume is not universally collected in

Montgomery County, roadway functional classifications—Major Highway, Arterial, Business District and Primary Residential, for example—stand in for a roadway’s traffic volume in this analysis.¹ Major highways are assumed to have high traffic volume while secondary residential roads are assumed to have low traffic volume and so on. “No pathway” scores consider land use, posted speed limit, traffic volume or roadway functional classification and whether curbside parking is allowed. Each factor used in the PLOC evaluation is detailed below.

Land Use

Land use, classified as “urban” and “non-urban,” indicates the volume of likely pedestrian activity on a given pathway segment. Urban pathways are those within the following zones: Commercial/Residential (CR), Life Sciences Center (LSC) or their floating zone equivalents (areas designated for these purposes but with undetermined locations). Pathways within multifamily residential zones (R-10, R-20, R-30) and townhouse zones (RT) receive an “urban” designation if they are adjacent to CR, LSC or floating zones. Pathways that are not adjacent to these land uses are considered “non-urban.” The “urban” versus “non-urban” designation affects the score of the pathway because pathways in urban areas are expected to be wider to accommodate more pedestrians.²

Pathway Width

In urban areas, wider pathways are preferred to accommodate more pedestrians and to reduce conflict and discomfort between people walking and biking. Urban pathways that are not sufficiently wide will receive a lower score and can be prioritized for improvements, such as wider shared use paths or separating walking from bicycling.³ The functional path width is the pedestrian clear space. This excludes the furnishing (space for obstacles like utility poles and signposts) and frontage zones (area adjacent to building fronts where café seating, etc. may be located). Overall width categories are indicated below:

- **Urban score categories (best to worst):** ≥10 feet, ≥8 feet to 10 feet, ≥5 feet to 8 feet, and <5 feet
- **Non-urban score categories (best to worst):** ≥8 feet, ≥5 feet to 8 feet, and <5 feet

Posted Speed Limit

Posted speed limit refers to the posted speed limit of the roadway parallel to the pathway. The maximum posted speed limit scoring cutoff is 40 mph because research shows that safety outcomes (injuries and fatalities) do not vary greatly for pedestrians when struck by a vehicle traveling at speeds higher than 40 mph. Posted speed limits are a stand-in for observed vehicular travel speeds which are not widely available in Montgomery County. Posted speeds cannot typically be changed in isolation to improve the PLOC score. Additional engineering efforts will likely be required. If observed speed data are available, it can be used with Planning staff and MCDOT approval.

- **Score categories (best to worst):** <25 mph, 25 mph, 30 mph, 35 mph, and ≥40 mph

Pathway Buffer Width

Pathway buffer refers to the distance between the pedestrian clear space (path width) and the curb or edge of pavement. Buffers of different widths provide varying benefits. Those between two and five feet separate moving vehicles from pedestrians which affords some amount of comfort benefit compared to no buffer at all. Having no buffer at all may force

¹ References to functional classification will be updated to reflect the street typologies in the Complete Streets Design Guide when that document is approved by County Council and the street classifications have been mapped.

² References to “urban” and “non-urban” will be updated to reflect the Downtown and Town Center designations identified by the Complete Streets Design Guide when that document is approved by County Council.

³ For more detailed width determination when designing a shared use facility, bicycle and pedestrian volume data are required and the FHWA Shared Use Path Level of Service Calculator is the recommended analytical tool to use: <https://www.fhwa.dot.gov/publications/research/safety/pedbike/05138/>.

pedestrians to “shy” away from travel lanes, thereby reducing the effective width of the pathway.⁴ Pathway buffers of at least five feet allow the planting of larger street trees to provide robust physical separation from traffic, shade canopy and a sense of enclosure for pedestrians.⁵ ⁶ Vertical buffers, such as railings, guardrails or jersey barriers are scored as equivalent to a five-foot buffer. Pathway buffers exceeding eight feet may provide all the benefits afforded by a five-foot buffer plus additional physical separation from traffic.

- **Score categories (best to worst):** ≥8 feet, 5 feet to <8 feet (includes vertical buffers), 2 to <5 feet, 0 to <2 feet

⁴ San Francisco Department of Public Health. 2012. "Pedestrian Environmental Quality Index: Street Auditor's Manual." San Francisco, CA.

⁵ Ibid.

⁶ Toole, J. 2010. Update of the AASHTO Guide for the Planning, Design, and Operation of Pedestrian Facilities. Transportation Research Board of The National Academies, National Cooperative Highway Research Program. (NCHRP 20-07/Task 263)

Pathway Condition

Research indicates that pathway condition affects pedestrian comfort and this variable is included in other leading pedestrian comfort indices.^{7 8 9} Montgomery County is currently collecting information about pathway condition throughout the county including cross slope (helps drain water and prevent pooling), tripping hazards, cracks, severe spalling (surface peeling or cracking of concrete), obstructions (to be accounted for in the Accessibility Evaluation), and missing sections. A sample survey is provided below.

HOT BUTTONS							
Ramps		Pathways		Crosswalks		Bus pads	
Detectable Warning Surface (DWS)	Yes/No	Surface Type	Concrete, Asphalt or Other	Slope		Minimum Size (5' x 8')	Yes/No
DWS Type	Cast in Place, Nail Down or Other	Width	In Feet	Marking Type	Solid, Standard, Continental, Dashed, Zebra, Ladder, None	Bus Stop Connected to Pathway (100' of pathway or nearest intersection)	Yes/No
DWS Color	Red, Yellow, Gray or Other	Cross Slope (2% or less but greater than 0)	Yes/No	Centered with Ramp	Yes/No	Midblock	Yes/No
DWS Size	In Feet	Trip Hazard 1/4" or greater	Yes/No	Pedestrian Signal	Yes/No		
Ramp Width	In Feet	Multiple Cracks in one section	Yes/No	Pushbutton	Yes/No		
Ramp Slope (8.33% or less)	Yes/No	Severe Spalling	Yes/No	Pushbutton	Heights, Distance from Pathway, Raised Tactile, Tone, Audible Indication, Actuated Indicator		
Ramp Landing area (2% or less)	Yes/No	Obstructions (less than 36" opening)	Yes/No				
Ramp Landing Area (5' x 5')	Yes/No	Obstruction Type	Utility, Vegetation, Sign or Other				
		Missing Sections Lengths	In Feet				

Montgomery County Pathway Condition Survey

⁷ Clifton, Kelly J., Andrea D. Livi Smith, and Daniel Rodriguez. 2007. "The development and testing of an audit for the pedestrian environment." Landscape and Urban Planning; 95-110.

⁸ San Francisco Department of Public Health, 2012.

⁹ Oregon DOT. 2018. "Multimodal Analysis." Chap. 14 in Analysis Procedure Manual.

In the PLOC, pathway condition is calculated based on the total number of issues counted on a given segment. For example, a poor pathway section could have obstructions, severe spalling and trip hazards, while a fair segment may have only cracking. A pathway is assumed to be in good condition unless data are available to identify any of the above issues. If the pathway is determined to be in fair condition, 0.5 will be added to its base score from the Pedestrian Pathway Table (table included in the Pathway Evaluation section). If determined to be in poor condition, 1 will be added to the base score (with a maximum score of 4).

The following issues can impact pathway condition:

- Cross slope – <0 or >2%
- Trip hazards – 1/4" or greater
- Cracks – Multiple cracks in one section
- Severe spalling – Surface peeling or flaking of concrete
- Obstructions – As defined above
- Missing sections – Any linear feet of missing pathway in a given segment
 - **Score categories:** Good (no known issues), Fair (1-2 issues), Poor (3+ issues)

On-Street Buffer (Designated Parking Lane or Separated Bike Lane)

Research shows that the presence of an on-street buffer, such as a parking lane or bike lane, can increase pedestrian comfort by providing additional separation between pedestrians and moving vehicles.^{10 11} Designated parking lanes include striped parking lanes, parking between curb extensions and metered parking. On-street parking that is not identified with striping, curb extensions or parking meters is not considered designated parking as vehicles may travel in that space in the absence of parked cars. The wider the on-street separation, the larger the effect on the overall score.

- **Score categories (best to worst):** Two-way separated bike lanes or combined designated parking lane and separated bike lanes (one- or two-way), designated parking lane or one-way separated bike lane, no designated parking lane or separated bike lane

Traffic Volume or Roadway Functional Classification

Traffic volume or roadway functional classification can influence a pathway score in two possible ways. First, pathways without buffers and no-pathway segments but low traffic volume may score better than those with higher traffic volume.

Second, pathways receiving an “uncomfortable” or “undesirable” score may be raised to “somewhat comfortable” due to low traffic volume. The PLOC accounts for a “low volume” variable which is applied to Tertiary Residential streets, residential cul-de-sacs (that do not terminate in a parking lot), and connector streets that serve as redundant residential routes with assumed low traffic volumes. A pathway that is already receiving a “somewhat comfortable” or “very comfortable” ranking remains unchanged.

Parking (“No Pathway” Segments Only)

On “No Pathway” segments (roadways without sidewalks or shared use paths), on-street parking forces pedestrians to walk in the path of motor vehicles. On streets without parking, pedestrians can more easily walk curbside, away from motor vehicles. Therefore, prohibition of on-street parking on streets with low speed limits may positively impact the PLOC score.

¹⁰ Landis, Bruce W., Vattijuti R Venkat, Russell M. Ottenberg, Douglas S. McLeod, and Martin Guttenplan. 2001. "Modeling the Roadside Walking Environment: Pedestrian Level of Service." *Transportation Research Record: Journal of the Transportation Research Board*.

¹¹ Moyano et al. 2019. "Station avenue: high speed rail's missing link. Assessing pedestrian city station routes for edge stations in Spanish small cities." *Journal of Housing and the Built Environment*: 175-193.

III. Crossing Factors

Crossings are scored using different metrics, depending on whether they are uncontrolled (no stop sign or traffic signal present) or controlled (stop sign or traffic signal present). Factors considered in all crossing evaluations include crossing control, presence of a channelized right turn or interstate ramp, number of lanes crossed, highest posted speed limit of the intersection, median type and crosswalk type. Only signalized crossings are affected and scored by the presence of a “No Right Turn on Red” sign.

Crossing Control

Traffic control can improve pedestrian safety and the specific controls used have varying pedestrian comfort benefits. Data providing the types of phasing at signalized intersections are currently unavailable. Therefore, crossings are characterized as controlled or uncontrolled. Controlled crossings include signalized and stop-controlled intersections (where a stop sign is present). Controlled crossings and uncontrolled crossings are scored differently. With all other factors equal, a controlled crossing is scored as more comfortable than an uncontrolled crossing.

Right Turn on Red

At signalized intersections, the presence of a “No Right Turn on Red” sign improves the final crossing score by a half point.

Channelized Right Turn or Interstate Ramp

Channelized turn lanes (separated from the main intersection by curbs or other delineators) and interstate on- and off-ramps encourage higher vehicle speeds and present unique safety challenges for pedestrian crossings—especially for people with visual disabilities.¹² The crossing of a channelized right turn lane or interstate ramp without traffic control automatically scores “undesirable” unless a raised crosswalk, vehicle-slowing geometry, or other treatments are in place that reduce speeds, improve visibility, and further mitigate conflicts between pedestrians and motor vehicles. In instances where such treatments are in place, an “uncomfortable” score is possible. Ramps and channelized right turns with signals are scored the same as one-lane signalized crossings.

Number of Lanes Crossed

As pedestrians cross more travel lanes to cross the street, exposure to crash risk increases and comfort decreases.^{13 14 15 16} The total number of lanes should be used (not lanes per direction); this variable does not change with the presence of a raised refuge island.¹⁷

- **Score categories (best to worst):** 1-3 lanes, 4-5 lanes, 6+ lanes

Highest Posted Speed Limit of the Intersection

The highest posted speed limit of all roads comprising an intersection is taken into account for both oncoming traffic and the speed of turning vehicles. Part of the discomfort pedestrians experience while traveling along high-speed roads is

¹² Schroeder, B. J., Roupail, N. M., & Emerson, R. S. W. 2006. Exploratory Analysis of Crossing Difficulties for Blind and Sighted Pedestrians at Channelized Turn Lanes. Transportation Research Record, 1956(1): 94–102. <https://doi.org/10.1177/0361198106195600112>

¹³ Oregon DOT. 2018.

¹⁴ Fitzpatrick et al. 2006. "Improving Pedestrian Safety at Unsignalized Crossings." Transit Cooperative Research Program Report 112, National Cooperative Highway Research Program Report 562.

¹⁵ Fitzpatrick et al. 2016. Will You Stop for Me? Roadway Design and Traffic Control Device Influences on Drivers Yielding to Pedestrians in a Crosswalk with a Rectangular Rapid-Flashing Beacon. Center for Transportation Safety, Texas A&M Transportation Institute.

¹⁶ Turner et al. 2017. Synthesis of Methods for Estimating Pedestrian and Bicyclist Exposure to Risk at Areawide Levels and on Specific Transportation Facilities. Federal Highway Administration, U.S. Department of Transportation.

¹⁷ If available, the curb to curb (or edge of pavement to edge of pavement) width of a crossing can be used instead of the number of lanes. The crossing width translates to the number of lanes by dividing total width by 11.

vehicles turning into their path. Even if those vehicles are turning onto a low-speed street, they can rapidly approach and be perceived as still travelling at high speed. Additionally, drivers turning left across a high-speed street onto a low-speed street may be more focused on finding a gap in traffic than on any pedestrians crossing the low-speed street. Residential crossings may benefit from traffic calming improvements, such as hardened centerlines on the perpendicular street, crossing islands, turn wedges, or curb extensions.¹⁸ For midblock crossings, the scoring uses the posted speed limit of the road being crossed.

- **Score categories (best to worst):** <25 mph, 25 mph, 30 mph, 35 mph, and ≥40 mph.

Median Type

While raised refuge islands have the greatest crossing safety and comfort benefits, medians that do not meet the criteria for a refuge may also have pedestrian safety benefits.¹⁹ A raised refuge island is a median of six feet to accommodate the width of a bicycle, a person using a wheelchair or a person pushing a stroller.²⁰ In addition, raised medians that are narrower than six feet may have safety benefits for pedestrians compared to no median.²¹ Hardened centerlines and grass medians also fall in this category as they provide physical separation between travel lanes but do not provide the full safety and comfort benefits of a raised refuge island. This variable is categorized as follows:

- **Score categories (best to worst):** Raised refuge island (raised median ≥6'); raised median <6', curbside landscaped (including grass) median of any width, or hardened centerline; painted/no median

Crosswalk Type

High-visibility crosswalks have proven pedestrian safety benefits over standard crosswalk markings.²² ²³ High-visibility crosswalk markings include continental, ladder, zebra and solid. Standard crosswalk markings include stamped concrete, standard and dashed marking patterns. Unmarked crossings have no pavement markings to denote the crosswalk.²⁴

- **Score categories (best to worst):** High-visibility, standard, or unmarked

¹⁸ NYCDOT. 2016. Don't Cut Corners: Left Turn Pedestrian and Bicyclist Crash Study. <http://home.nyc.gov/html/dot/downloads/pdf/left-turn-pedestrian-and-bicycle-crash-study.pdf>

¹⁹ Federal Highway Administration, U.S. Department of Transportation. 2019. Proven Safety Countermeasures. <https://safety.fhwa.dot.gov/provencountermeasures/>.

²⁰ Rosenbloom, Toval, and Avihu Pereg. 2012. "A within-subject design of comparison of waiting time of pedestrians before crossing three successive road crossings." Transportation Research Part F 625-634.

²¹ Bahar, Geni, Maurice Masliah, Rhys Wolff, and Peter Park. 2008. Desktop Reference for Crash Reduction Factors. Washington, D.C.: Federal Highway Administration, U.S. Department of Transportation.

²² FHWA. 2019. Proven Safety Countermeasures.

²³ Knoblauch, Richard, and Paula D Raymond. 2000. The Effect of Crosswalk Markings on Vehicle Speeds in Maryland, Virginia, and Arizona Report No. FHWA-RD-00-101. Washington, D.C.: Federal Highway Administration, U.S. Department of Transportation.

²⁴ Locations where crossings are legally prohibited are treated as "unmarked" for purposes of PLOC assessment.

IV. Comfort Levels

The comfort level scale allows for a basic four-point ranking system, while half-points add further nuance when additional data are available to refine the evaluation. For example, a crossing might be upgraded from a score of 3 to 2.5 if an additional safety or comfort treatment, such as lighting or a “No Turn on Red” sign, is present.²⁵

1 = Very Comfortable

1.5 = Comfortable

2 = Somewhat Comfortable

2.5 = Somewhat Uncomfortable

3 = Uncomfortable

3.5 = Very Uncomfortable

4 = Undesirable

²⁵ Achieving the desired PLOC score may not always be possible in a given location due to limited right-of-way, impractical traffic operations requirements, cost, or other feasibility concerns.

V. Pathway Evaluation

Pedestrian pathways will be scored using the following table. A separate scoring table for roadways with no pedestrian pathway follows.

Pedestrian Pathway Table

This table is categorized along the vertical axis by land use (urban, non-urban) and compares pathway width (broken down into speed categories) to total buffer width, further classified by on-street buffer type. On-street buffers are abbreviated as DPL (designated parking lane), SBL (separated bike lane) and 2SBL (two-way separated bike lane). These variables were considered because a pathway’s relative distance from a roadway (i.e. the buffer plus on-street separation), its width, and the speed of that roadway have interrelated effects on pedestrian comfort. *The scores in this table assume the pathway is in good condition. If the pathway is in fair condition, 0.5 will be added to the score. For poor condition, 1 will be added to the score (with a maximum score of 4).*

	PATHWAY WIDTH	POSTED SPEED LIMIT	PATHWAY BUFFER WIDTH / ON-STREET SEPARATION											
			0 ft to <2 ft			2 to <5 ft			5 to <8 ft			≥8 ft		
			No DPL or SBL	DPL or 1SBL	2SBL or DPL & SBL	No DPL or SBL	DPL or 1SBL	2SBL or DPL & SBL	No DPL or SBL	DPL or 1SBL	2SBL or DPL & SBL	No DPL or SBL	DPL or 1SBL	2SBL or DPL & SBL
URBAN	No walkway		Use “No Pathway” Table											
	< 5ft	< 25 mph	4	3	1	4	3	1	3	2	1	2	1	1
		25 mph	4	3	1	4	3	1	3	2	1	2	1	1
		30 mph	4	3	1	4	3	1	3	2	1	2	1	1
		35 mph	4	3	2	4	3	2	3	2	1	2	1	1
		≥ 40 mph	4	4	3	4	3	2	3	2	2	2	1	1
	≥5 to 8 ft	< 25 mph	2	2	1	2	2	1	2	1	1	1	1	1
		25 mph	2/3*	2	1	2/3*	2	1	2	1	1	1	1	1
		30 mph	4	3	1	3	2	1	2	1	1	1	1	1
		35 mph	4	3	2	3	2	2	3	2	1	2	1	1
		≥ 40 mph	4	4	3	4	3	2	3	2	2	2	1	1
	≥8 to 10 ft	< 25 mph	2	2	1	2	1	1	1	1	1	1	1	1
		25 mph	2	2	1	2	1	1	1	1	1	1	1	1
		30 mph	4	3	1	3	2	1	2	1	1	1	1	1
		35 mph	4	3	2	3	2	2	3	2	1	2	1	1
		≥ 40 mph	4	4	3	4	3	2	3	2	2	2	1	1
	≥10 ft	< 25 mph	2	1	1	2	1	1	1	1	1	1	1	1
		25 mph	2	2	1	2	1	1	1	1	1	1	1	1
		30 mph	3	2	1	3	2	1	2	1	1	1	1	1
		35 mph	4	3	2	3	2	2	3	2	1	1/2^	1	1
≥ 40 mph		4	4	3	4	3	2	3	2	2	1/2^	1	1	

	PATHWAY WIDTH	POSTED SPEED LIMIT	PATHWAY BUFFER WIDTH / ON-STREET SEPARATION											
			0 ft to <2 ft			2 to <5 ft			5 to <8 ft			≥8 ft		
			No DPL or SBL	DPL or 1SBL	2SBL or DPL & SBL	No DPL or SBL	DPL or 1SBL	2SBL or DPL & SBL	No DPL or SBL	DPL or 1SBL	2SBL or DPL & SBL	No DPL or SBL	DPL or 1SBL	2SBL or DPL & SBL
NON-URBAN	No walkway		Use "No Pathway" Table											
	Less than 5ft	< 25 mph	2	2	1	2	1	1	2	1	1	1	1	1
		25 mph	2/3*	2	1	2	1	1	2	1	1	1	1	1
		30 mph	4	3	1	3	2	1	2	1	1	1	1	1
		35 mph	4	3	2	3	2	2	3	2	1	2	1	1
		≥ 40 mph	4	4	3	4	3	2	3	2	2	2	1	1
	≥5 to 8 ft	< 25 mph	2	2	1	2	1	1	2	1	1	1	1	1
		25 mph	2/3*	2	1	2	1	1	2	1	1	1	1	1
		30 mph	4	3	1	3	2	1	2	1	1	1	1	1
		35 mph	4	3	2	3	2	2	3	2	1	2	1	1
		≥ 40 mph	4	4	3	4	3	2	3	2	2	2	1	1
	≥8 ft	< 25 mph	2	1	1	2	1	1	1	1	1	1	1	1
		25 mph	2	2	1	2	1	1	1	1	1	1	1	1
		30 mph	4	3	1	3	2	1	2	1	1	1	1	1
		35 mph	4	3	2	3	2	2	3	2	1	1/2^	1	1
≥ 40 mph		4	4	3	4	3	2	3	2	2	1/2^	1	1	

* If the road category is less than Primary Residential in the Master Plan of Highways and Transitway, it will score as a 2, otherwise it will score a 3.

^If the pathway buffer width is 15' or greater, it will score as a 1, otherwise it will score as a 2.

No Pedestrian Pathway Table

Streets with no pathway receive special consideration because they cannot be scored based on path width or buffer. The most important considerations on these streets are posted speed, amount of vehicle traffic, land use and parking presence. In this table, functional class is used as a substitute for vehicle traffic volumes, since traffic volume data are not available on all roads. No road without a pathway can receive a perfect score of 1 using the available variables.²⁶ Parking on Less than Primary Residential streets may decrease pedestrian comfort by forcing pedestrians to share a narrower right of way with vehicular traffic, thereby contributing to potential conflicts.

CONTEXT	MASTER PLAN OF HIGHWAYS AND TRANSITWAYS (MPOHT) FUNCTIONAL CLASSIFICATION	PARKING ALLOWED	POSTED SPEED LIMIT				
			< 25 mph	25 mph	30 mph	35 mph	≥ 40 mph
URBAN	Any	No / Yes	4	4	4	4	4
NON-URBAN	Less than Primary Residential	No	2	3	4	4	4
		Yes	2	3	4	4	4
	Primary Residential or Greater	No	2	4	4	4	4
		Yes	3	4	4	4	4

²⁶ In the future, M-NCPPC may collect data on traffic calming measures, neighborhood slow zones with traffic calming, neighborhood shared streets or commercial shared streets, all of which would receive a score of 1 with speeds of less than 25 mph. All other scores for these contexts would remain the same.

VI. Crossings Evaluation

Crossings are scored using two main tables and an overlay table for factors that, if evaluated, can affect the base score. The two primary crossing tables are mutually exclusive (controlled or uncontrolled crossings). After crossings are scored, the overlay bonus can be assessed, as described in the crossing overlays section.

Controlled Crossings (Signalized or Stop-Controlled) Table

The following variables are considered for signalized crossings or stop-controlled crossings: number of lanes, median type, crosswalk type and posted speed limit. The highest posted speed limit of the segments that comprise the crossing is the speed limit used for scoring. These variables interact to produce the scores below.

# OF LANES	MEDIAN TYPE	CROSSWALK TYPE	POSTED SPEED LIMIT				
			< 25 mph	25 mph	30 mph	35 mph	>= 40
1 to 3	Raised Refuge Island	High Visibility	1	1	1	2	2
		Marked	1	1	2	2	2
		Unmarked	1	1	3	3	4
	Raised/Hardened Centerline	High Visibility	1	1	2	2	3
		Marked	1	1	2	2	3
		Unmarked	1	2	3	4	4
	Painted/None	High Visibility	1	1	2	3	3
		Marked	1	1	2	3	3
		Unmarked	1	2	3	4	4
4 to 5	Raised Refuge Island	High Visibility	1	1	2	3	3
		Marked	1	1	2	3	3
		Unmarked	1	3	3	4	4
	Raised/Hardened Centerline	High Visibility	2	2	2	3	3
		Marked	2	2	3	3	4
		Unmarked	2	3	4	4	4
	Painted/None	High Visibility	2	2	2	3	3
		Marked	3	3	3	3	4
		Unmarked	4	4	4	4	4
6 +	Raised Refuge Island	High Visibility	2	2	2	3	3
		Marked	3	3	3	3	3
		Unmarked	4	4	4	4	4
	Raised/Hardened Centerline	High Visibility	2	2	2	3	4
		Marked	3	3	3	4	4
		Unmarked	4	4	4	4	4
	Painted/None	High Visibility	2	3	3	3	4
		Marked	3	3	3	4	4
		Unmarked	4	4	4	4	4

Uncontrolled Crossings Table

The same primary variables are considered for uncontrolled crossings as signalized crossings or stop controlled crossings, however, the scoring is specific to uncontrolled crossings.

# OF LANES	MEDIAN TYPE	CROSSWALK TYPE	POSTED SPEED LIMIT				
			< 25 mph	25 mph	30 mph	35 mph	>= 40
1 to 3*	Raised Refuge Island	High Visibility	1	1	2	3	4
		Marked	1	1	3	3	4
		Unmarked	2	2	4	4	4
	Raised/Hardened Centerline	High Visibility	1	1	2	3	4
		Marked	1	2	3	3	4
		Unmarked	2	2	4	4	4
	Painted/None	High Visibility	1	2	2	3	4
		Marked	1	2	3	3	4
		Unmarked	2	3	4	4	4
4 to 5	Raised Refuge Island	High Visibility	1	2	2	3	4
		Marked	1	2	2	3	4
		Unmarked	2	3	4	4	4
	Raised/Hardened Centerline	High Visibility	2	2	3	4	4
		Marked	3	3	3	4	4
		Unmarked	4	4	4	4	4
	Painted/None	High Visibility	4	4	4	4	4
		Marked	4	4	4	4	4
		Unmarked	4	4	4	4	4
6+	Raised Refuge Island	High Visibility	3	3	3	4	4
		Marked	3	3	3	4	4
		Unmarked	4	4	4	4	4
	Raised/Hardened Centerline	High Visibility	3	3	4	4	4
		Marked	3	3	4	4	4
		Unmarked	4	4	4	4	4
	Painted/None	High Visibility	4	4	4	4	4
		Marked	4	4	4	4	4
		Unmarked	4	4	4	4	4

*In locations where a 3-lane road does not include a turn lane, the crossing should be scored as if it has 4 travel lanes.

VII. Crossing Overlays

Overlays are used for crossings that have additional safety and comfort features present as follows:

Lighting

All crossings should be evaluated for lighting where data are available. If lit to MCDOT standards, a crossing’s score is improved by a half point.

Protected Pedestrian Phase or Leading Pedestrian Interval (LPI)

Scores for controlled crossings are improved by the presence of either a protected pedestrian phase (fully protected or protected/permissive) or an LPI that allows the pedestrian a head start into an intersection before vehicle traffic signals turn green.

Rectangular Rapid Flashing Beacon (RRFB)

The presence of an RRFB, a traffic control device that improves motorist yielding compliance at uncontrolled crossing locations, improves a crossing’s score by a half-point.

No Right Turn on Red Signage (No RTOR)

At signalized intersections, the presence of a “No Right Turn on Red” sign improves the final crossing score by a half point.

Traffic Calming

At all crossing locations, treatments that slow traffic speeds, improve visibility, and increase yield compliance improve the crossing score by a half point. Such treatments can include raised centerlines, raised intersections, raised crossings, or turn wedges.

Overlay Scoring

The total maximum scoring adjustment for the crossing overlays is 0.5, with the exception of any combination including traffic calming, where the maximum scoring adjustment is 1.0. An overlay category can be ignored if data for that feature are not yet available.

CROSSING TYPE	CROSSING OVERLAY FEATURE	PRESENT	BONUS POINTS	ADDITIVE
Controlled Crossings	Protected Pedestrian Phase or Leading Pedestrian Interval	Yes	0.5	No
		No	0	
	No Right Turn on Red Signage Present (Signalized)	Yes	0.5	No
		No	0	
Uncontrolled Crossings	Rectangular Rapid Flashing Beacon	Yes	0.5	No
		No	0	
All Crossings	Lighting to MCDOT Standards	Yes	0.5	No
		No	0	
	Traffic Calming	Yes	0.5	Yes
		No	0	

VIII. Accessibility Evaluation

In addition to the PLOC evaluation, an accessibility evaluation is recommended for both street blocks and crossings. If a street block or crossing has a score of greater than zero, it may have accessibility issues that need to be addressed.

	ADA CONDITION	YES/NO	SCORE	NOTES		
Street Block (Score each segment)	Pathway is under 5' wide	Yes	1	Sum = number of ADA issue categories. Score of 0 = No known accessibility issues from available data.		
		No	0			
	Trip hazards of 1/4" or greater	Yes	1			
		No	0			
	Cross slope less than 0% or greater than 2%	Yes	1			
		No	0			
	Obstruction(s) creating a less than 36"* pedestrian access route (PAR)	Yes	1			
		No	0			
	Missing pathway section(s) within segment	Yes	1			
		No	0			
	Crossings (Score each crossing direction or crosswalk)	Lacking detectable warning surface (DWS)	Yes		1	Sum = number of ADA issue categories. Score of 0 = No known accessibility issues from available data.
			No		0	
Ratio of DWS width / Ramp width is less than 1		Yes	1			
		No	0			
Ramp width is less than 36"***		Yes	1			
		No	0			
Ramp slope is less than 0% or greater than 8.33%		Yes	1			
		No	0			
Ramp landing area slope is less than 0% or greater than 2%		Yes	1			
		No	0			
Ramp landing area is less than 5' x 5'		Yes	1			
		No	0			
Accessible pushbutton not present (when pedestrian signal is present)		Yes	1			
		No	0			

*Current ADA Standards from the U.S. Department of Justice/Federal Highway Administration (USDOJ)/FHWA) require 36" minimum width for segments (with 60" passing space every 200' minimum for segments). When adopted, Public Right of Way Accessibility Guidelines (PROWAG) will require a 48" minimum and recommend a 60" width for segments. Obstructions include any fixed object, such as signs, planters, utility poles, tree trunks/pits, etc.

**Current ADA Standards (USDOJ/FHWA) recommend a 48" minimum curb ramp with a minimum of 36" required in locations where space is restricted. PROWAG recommends 48" minimum width for curb ramps at all locations.

IX. Conclusion

Montgomery County Planning will use the PLOC evaluation and associated connectivity analyses to identify locations in the county with the greatest pedestrian comfort needs and recommend projects to address these needs in collaboration with MCDOT and other relevant jurisdictions. Used in conjunction with the accessibility overlay table and other pedestrian planning and prioritization tools, such as equity emphasis areas, the PLOC methodology provides a powerful tool for Montgomery County to improve pedestrian comfort and make it easier for the county's residents and visitors to walk.

X. Scoring Examples

The following examples illustrate the PLOC evaluation (including Crossing Overlay score, where applicable) for several pathway and crossing examples in Montgomery County. Examples do not include ADA assessment as the full assessment requires more information than can be gathered using a photo.

Pathway Examples

1220 Noyes Drive, Silver Spring

Non-urban area, no pathway, less than primary residential, no parking allowed, 25 mph.

Score: 3 - Uncomfortable



408 North Horners Lane, Rockville

Left: Non-urban area, primary residential, 4-foot pathway, no buffer, designated parking lane, 25 mph, good condition.

Score: 2 - Somewhat Comfortable

Right: Non-urban area, primary residential, 3.5-foot pathway, 2-foot buffer, no on-street separation, 25 mph, good condition.

Score: 2 - Somewhat Comfortable



Maryland 119 in Gaithersburg

Non-urban area, 8-foot pathway, 5-foot buffer, no parking lane or SBL, 50 mph, good condition.

Score: 3 - Uncomfortable



898 Silver Spring Avenue, Silver Spring

Urban, 8-foot pathway, 5-foot buffer, striped parking lane, good condition, 25 mph.

Score: 1 - Very Comfortable



7431 Arlington Road, Bethesda

Left: Urban, 5.5-foot pathway, no buffer, no parking lane or SBL, 30 mph, good condition.

Score: 4 - Undesirable

Right: Urban, 6-foot pathway, no buffer, no parking lane or SBL, 30 mph, fair condition (utility pole obstructions create <36-inch Pedestrian Access Route).

Score: 4 - Undesirable



Crossing Examples

University Boulevard West and Georgia Avenue, Wheaton

All sides: Signalized, highest posted speed: 35 mph, high-visibility crosswalk, permissive signal phasing, 6+ lanes crossed, raised median.

Score: 3 - Uncomfortable



Edwin Street and Bluhill Road, Wheaton

Stop controlled, highest posted speed: 25 mph.

All sides: Unmarked crosswalk, two lanes crossed, painted/no median.

Score: 2 - Somewhat Comfortable



Washington Street and Martins Lane, Rockville

Signalized, highest posted speed: 30 mph.

North and South sides: Standard crosswalk, four lanes crossed, painted/no median.

Score: 3 - Uncomfortable

West side: Standard crosswalk, three lanes crossed, painted/no median.

Score: 1 - Very Comfortable



Hitching Post Lane & Montrose Road, North Bethesda (facing west)

Signalized, highest posted speed: 40 mph.

Note: This intersection has evidence of pedestrian-scale and overhead lighting; hypothetical scores provided if MCDOT standards are confirmed.

North (right) side: Standard crosswalk, three lanes crossed, painted/no median.

Score: 3 - Uncomfortable

Score (with lighting): 2.5 – Somewhat Uncomfortable

South (left) side: Standard crosswalk, four lanes crossed, painted/no median.

Score: 4 - Undesirable

Score (with lighting): 3.5 – Very Uncomfortable

East (foreground) side: High-visibility crosswalk, seven lanes crossed, raised refuge island.

Score: 3 - Uncomfortable

Score (with lighting): 2.5 - Somewhat Uncomfortable

West (background) side: Standard crosswalk, seven lanes crossed, raised refuge island.

Score: 3 - Uncomfortable

Score (with lighting): 2.5 - Somewhat Uncomfortable



Sussex Road and Park Crest Drive, Silver Spring

Highest posted speed: 25 mph

North(background) and south (foreground) sides: Uncontrolled, two lanes crossed, unmarked, painted/no median.

Score: 3 - Uncomfortable

West (left) side: Stop-controlled, two lanes crossed, unmarked, painted/no median.

Score: 2 - Somewhat comfortable





MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

September 11, 2020

To: Council colleagues
Fr: Hans Riemer
Re: Emergency growth policy amendment to support biohealth industry

Right now there are billions of dollars in investment flowing into companies that are providing vaccines and therapeutics for COVID-19. Many of those companies are located in Montgomery County: Novavax, Emergent, AstraZeneca, Qiagen, to name just a few.

As the companies are receiving contracts and investment from public and private entities, they are planning their growth for the next several years and beyond. Some will need new and expanded facilities to conduct new research and manufacturing enterprises.

This is a crucial moment where Montgomery County can secure our brand as the vaccine capital of the world, capturing economic growth that will benefit our community for decades to come -- or see that growth go to other communities such as Frederick, Philadelphia, or North Carolina.

Accordingly, now is the time for unconventional and emergency steps to support growth in our biohealth sector.

One of the impediments to investment in Montgomery County is our extensive and lengthy development approval process, which according to industry experts takes about 18 months on average, despite recent efforts to improve the process. A company that wants to hit a certain and accelerated timeline for getting project approvals can not have enough confidence that their goals can be achieved in Montgomery County. That must change.

Research on pandemics will grow even after COVID19 has passed. Montgomery County could capture a significant amount of that growth and create high wage jobs for our community. Or, companies in these sectors could find that County processes are too slow and cumbersome and they need to locate their investments elsewhere in order to meet deadlines. That has already happened, as you can see from the life sciences growth in Frederick today.

Given the incredible timeliness and opportunity for the County in this moment, I am proposing that we include in the 2020-2024 Subdivision Staging Policy (which we should rename Growth Policy) a provision to exempt any facility that will primarily be used for life sciences and biotech from SSP transportation tests, for the next five years. The exemption will enable these projects to move forward more quickly and with greater confidence.

The provision to achieve that goal reads as follows:

Temporary Suspension for Biohealth / Life Sciences

The Local Area Transportation Review (section TL) requirements of the Subdivision Staging Policy must not apply to a development or a portion of a development where:

- 1) the primary use is biohealth or life sciences; and*
- 2) an application for preliminary plan, site plan, or building permit that would otherwise require a finding of Adequate Public Facilities is approved after [insert effective date] and before [insert date 5 years after effective date]; and*
- 3) an application for building permit is filed within 3 years after the approval of the application.*

This amendment would be part of the larger growth policy (SSP) that we are taking up and need to approve by November 15, 2020.

As for how this will impact transportation, the implication will be that if the County is concerned about local area transportation impacts it can do an assessment and plan for improvements, but those will not be required of the developer or company. Think of this as a guaranteed economic development incentive for a critical industry at a “make or break” moment.

Because this reform only addresses a share of the development process, it is urgently important that County departments accelerate their timelines to provide absolute confidence in a pathway for investment and approval. I am exploring additional steps the Council can take to remove barriers as well.

From an economic perspective, leveraging this moment of economic development opportunity could bring long lasting benefits -- benefits that help us secure our County’s place in the global life sciences industry over time. We must act with urgency.

Thank you for your earlier support for my proposal to add an item to the Planning Department work program to rethink and re-envision transportation and development in the Great Seneca Science Corridor biohealth cluster area. That work is underway.

Please let me know if you would like to co-sponsor this amendment. Thank you.

Vaccine Work Boosts Montgomery County Life Sciences Demand, Outpacing Available Space

September 28, 2020 | Jon Banister, Bisnow Washington, D.C.

The federal government has pumped billions of dollars into **Montgomery County** life sciences companies to work on a COVID-19 vaccine, and these investments are having major implications for the area's real estate market.



The vaccine-related activity is creating more demand for lab space in an already tight market, further reducing vacancy rates and driving up rents. This dynamic is leading developers to consider breaking ground on spec and converting vacant office buildings to lab space, multiple experts said Thursday on *Bisnow's Life Science Surge webinar*.

The Department of Health and Human Services has distributed billions of dollars through its **Operation Warp Speed program**, with a goal of producing and delivering 300 million doses of effective vaccines starting in January. Four of the 10 companies that have received the most funding are based in Montgomery County, BioHealth Innovation CEO Richard Bendis said.

Gaithersburg-based Novavax received \$1.6B to manufacture a COVID-19 vaccine, HHS **announced July 7**. Rockville-based Emergent BioSolutions received \$628M in funding, **HHS announced June 1**. U.K.-based GlaxoSmithKline, which has a Global Vaccine Center in **Rockville**, was part of a partnership that **received** \$2B in vaccine funding. AstraZeneca, a U.K.-based company with a major Gaithersburg facility, **received** \$1.2B in vaccine funding in May.

"It speaks to how important from a vaccine development and manufacturing perspective this region is to everybody in the world, because almost 40% of the funds from Operation Warp Speed are going into one small county in the U.S., which happens to be part of this region," Bendis said.

This vaccine funding is not only benefiting the companies that have received it but also the broader market that supports them, EwingCole Managing Principal Bill Gaudreau said.

"There are so many companies that are involved in supporting the manufacturing, testing, distribution, there's a huge benefit that has played out," Gaudreau said. "There's been an increased demand in the real estate market to try to accommodate those [companies], and it's been difficult with the shrinking availability of space in the market."



Venture capital investment has also been flowing into Maryland life sciences companies. JLL has tracked more than \$500M in VC investment in the region's life sciences companies this year, compared to \$100M in 2016, JLL Executive Managing Director Pete Briskman said.

"There is a direct correlation between VC and private equity and tenant demand, so in the future what we're going to have to do is keep up with that demand," Briskman said.

Life science tenants created 870K SF of leasing demand in suburban Maryland from January 2019 through June 2020, comprising nearly 25% of the area's commercial leasing activity during that period, according to JLL. The vacancy rate for suburban Maryland life sciences space is around 4%, Briskman said, compared to roughly 17% vacancy in the area's office market.

This low vacancy rate has led rents to increase by nearly 50% over the last three years, Briskman said. Even with the increases, he said rents in suburban Maryland's life sciences market are still roughly half the rents in the Boston, New York and San Francisco markets.

"There is certainly a value play in staying in Maryland even though the rents are increasing," Briskman said.

Briskman said he expects the rising demand and rents in the life sciences sector will lead to more developers entering the market and to more speculative construction.

"I think we're going to see more spec development," he said. "I think we're going to see institutional owners from outside our region enter the market and maybe buy land and entitle it."



In addition to new development, Briskman said he is seeing a growing trend of life sciences companies leasing spaces that developers have converted from other uses.

"Because the market is so tight, tenants and landlords (51A)

... because the market is so tight, tenants and landlords are being more flexible with their space needs," he said. "So if you're manufacturing you can go to warehouse buildings ... you can also convert an office building. Owners are looking at office product that's empty and saying 'here's an opportunity.'"

[Alexandria Real Estate Equities](#) and an affiliate of [Scheer Partners](#) converted an 80K SF office building in Gaithersburg into lab space, and in August the team announced it [signed a lease](#) with Novavax to bring the project to 100% leased. Rock Creek Property Group in 2018 [signed](#) a full-building lease with Supernus Pharmaceuticals for a 119K SF Gaithersburg office-to-lab conversion project. American Gene Technologies in July [leased](#) 27K SF of lab space in a converted office building in Rockville.

Gaudreau, who works on strategic planning and design for initiatives for his architecture firm's science and technology tenants, also said he is seeing many property owners adapt vacant office buildings for science purposes.

"We're in the middle of a very robust marketplace with inadequate real estate opportunities to support the life sciences community, so anything that the market can do to support the development of more space and more capability for these companies ... is really what's going to be key for this economy," Gaudreau said.

LucasPye Bio founder and CEO Tia Lyles-Williams said that while the influx of vaccine funding has benefited the market, it has also created challenges for the manufacturing of other drugs not related to the coronavirus.

"For all the space the COVID effort is going to take up, that's also a loss to different patients with different chronic diseases for which there may be a shortage of drugs," Lyles-Williams said. "Patients have already been turned away from receiving their regular dose, their standard of care has been interrupted because of what's going on with Operation Warp Speed."

Contact Jon Banister at jon.banister@bisnow.com

See Also: ['A Sobering Picture Of Stagnation': CREW Finds Gender Wage Gap Is Much Worse Than 2015](#)

Related Topics: [JLL](#), [GlaxoSmithKline](#), [Montgomery County](#), [Rockville](#), [Alexandria Real Estate Equities](#), [Gaithersburg](#), [Scheer Partners](#), [EwingCole](#), [Novavax](#), [Department of Health and Human Services](#), [webinar](#), [BioHealth Innovation](#), [Richard Bendis](#), [Bill Gaudreau](#), [Pete Briskman](#), [LucasPye Bio](#), [Tia](#)



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

MEMORANDUM

To: County Council  
From: Councilmembers Riemer and Friedson
Date: October 22, 2020
Re: Transportation impact taxes for agritourism

From farm-to-table, pick-your-own produce, and hands-on educational activities to award-winning wineries and farm breweries, agritourism is a critical and growing component of the County's rural economy. Agritourism also breathes fresh energy into our efforts to preserve farmland. It does this by supporting the financial viability of County farms *and* enlisting many more County residents into our farmland preservation efforts by providing them unforgettable experiences of our dynamic agricultural economy and its history.

While the County and the Council, in particular, have historically been strong supporters of agritourism (passing important zoning reforms to agritourism in 2014 and to farm alcohol production in 2018, and establishing the Agritourism Advisory Committee to provide recommendations on how to strengthen the sector), there remains a very large, and sometimes insurmountable, hurdle to opening agritourism businesses: transportation impact taxes. Traditionally, buildings used for agricultural purposes have been exempt from transportation impact taxes because they cause *de minimis* traffic. However, it has been brought to our attention by the agricultural community, due to certain provisions in the existing impact tax law and building code, agritourism businesses are facing enormous transportation impact tax bills that bear little connection to their actual impact on the transportation system.

Taking a step back, the County currently imposes transportation impact taxes based on a policy framework that tries to capture an amount of revenue equal to new development's impact on the transportation system. In other words, growth pays for growth. But to implement this policy framework in a cogent and fair way—after all, not all new development creates the same amount of trips—we have created a variety of use categories and geographic groupings and assigned them a specific tax rate. The matrix below shows the current rates.

Building Type	Red Policy Areas (Metro Stations)	Orange Policy Areas	Yellow Policy Areas	Green Policy Areas
Residential Uses				
Single-Family detached (per unit)	\$7,838	\$19,591	\$24,490	\$24,490
Single-Family attached (per unit)	\$6,413	\$16,030	\$20,038	\$20,038
Multifamily Low Rise (per unit)	\$4,986	\$12,465	\$15,582	\$15,582
Multifamily High Rise (per unit)	\$3,561	\$8,904	\$11,130	\$11,130
Senior Residential (per unit)	\$1,424	\$3,562	\$4,452	\$4,452
Student-Built Houses (per unit)	\$0.00	\$0.00	\$0.00	\$0.00
Commercial Uses				
Office (per sq. ft. GFA)	\$7.15	\$17.90	\$22.40	\$22.40
Industrial (per sq. ft. GFA)	\$3.60	\$8.90	\$11.20	\$11.20
Bioscience facility (per sq. ft. GFA)	\$0.00	\$0.00	\$0.00	\$0.00
Retail (per sq. ft. GFA)	\$6.35	\$16.00	\$19.95	\$19.95
Place of worship (per sq. ft. GFA)	\$0.00	\$0.00	\$0.00	\$0.00
Clergy House (per unit)	\$0.00	\$0.00	\$0.00	\$0.00
Private elementary and secondary school (per sq. ft. GFA)	\$0.55	\$1.45	\$1.85	\$1.85
Hospital (per sq. ft. GFA)	\$0.00	\$0.00	\$0.00	\$0.00
Charitable, Philanthropic Institution (per sq. ft. GFA)	\$0.00	\$0.00	\$0.00	\$0.00
Other nonresidential (per sq. ft. GFA)	\$3.60	\$8.90	\$11.20	\$11.20

While agricultural buildings are generally exempt from impact taxes, new buildings being used for agritourism that require a commercial building permit have been categorized as industrial and/or retail and assessed the corresponding rates above. Indeed, since agritourism falls, by definition, into the green or yellow policy areas, they are being charged some of the highest rates or all commercial businesses in the county. For instance, this could result in ~\$125,000 in impact taxes for a typical winery or farm brewery with 7,500 sq ft. of production/storage (industrial) and 2,000 sq ft of tasting room space (retail), a modest size facility.

We believe that’s neither a good outcome nor consistent with the County’s policy framework for transportation impact taxes. Unlike an office building or shopping center, but like most buildings used for agriculture, the production/storage portion of an agritourism building has a nominal impact on the transportation system. That is the portion of a winery where grapes are stored and processed, for example. It should not be assessed transportation impact taxes.

Likewise, we are also keen on considering changes to the retail rate for agritourism buildings. While an agritourism business does produce customer vehicular trips, those trips tend to be non-peak trips (weekends) and be more seasonal. So we would expect less impact generally on the transportation system. We also want to acknowledge that these agritourism businesses are located in a unique part of the County that we want to promote. As such, trips created by visitors to these businesses should not necessarily be seen as burdensome but rather something we encourage.

Accordingly, we are proposing a two-prong solution. One, we propose amending Bill 38-20 to create a new use category for the production and storage of agricultural products and set the rate at \$0.00. The executive branch has helpfully drafted a definition for “Agricultural Facility”,

which you will find attached to this memo, and supports a \$0 rate for this portion. We appreciate their contributions to this discussion.

Two, we have concurrently requested that the planning department conduct an analysis of the transportation impact of the retail portion of agritourism businesses to help us determine a more appropriate rate. While we would expect the peak trips generated by the retail portion of agritourism business to be less, perhaps significantly, than the current retail rate contemplates, we could benefit from targeted analysis to determine just how much less. After reviewing this targeted analysis, we will likely introduce stand-alone legislation on retail rates for agritourism this winter.

We respectfully request your support of our attached amendment because it provides a more accurate accounting of agritourism's impact on our transportation system and just as importantly, helps support this important sector of the County's rural economy.

cc: Marc Elrich, County Executive
Casey Anderson, Chair, Planning Board
Gwen Wright, Director, Planning Department
Chris Conklin, Director, MCDOT
Jeremy Criss, Director, OAG

Agricultural Facility Amendment – Bill 38-20

Add the following after line 18:

Adequate Public Facilities Ordinance policy area transportation adequacy standards means standards by which the area-wide adequacy of transportation facilities serving a proposed development are judged. APFO policy area transportation adequacy standards do not include requirements for other on-site or off-site transportation improvements that may be separately required or standards relating to local area review which may be independently required.

Agricultural facility means a building or structure, or portion of a building or structure, in the Agricultural or Rural Residential Zones that is used exclusively for the storage or processing of an agricultural product to prepare the product for market in the Agricultural Reserve, Rural Residential, RE-1 and RE-2 zones.

Applicant means the property owner, or duly designated agent of the property owner, of land on which a building permit has been requested for development.



DEPARTMENT OF PERMITTING SERVICES

Marc Elrich
County Executive

Mitra Pedoeem
Director

June 9, 2020

VIA EMAIL

James R. Clifford, Sr., Esq.
Clifford, Debelius, Boynton & Hyatt, Chtd.
316 East Diamond Avenue
Gaithersburg, Maryland 20877

RE: Windridge Winery

Dear Mr. Clifford:

This letter is in response to your request that the Department of Permitting Services (DPS) reconsider the impact tax assessment for the Windridge Winery. The issue for DPS involves the intersection of the requirement to get a building permit and development impact taxes. Buildings that are used exclusively for agricultural purposes on land used exclusively for agriculture are exempt from getting building permits. However, a building or structure used for a purpose that is not exclusively agricultural (a mix of uses) is not exempt from getting a building permit.

This building is a mix of uses, a retail portion for a winery/tasting room and an agricultural portion for wine production. Since the building was designed as not being exclusively agricultural in use, the owners had to get a permit under Sec. 8-1(d)(2)(A). If the building contains a mix of uses, as is the case here, DPS must separately calculate the development impact tax due for each type of development. The uses and gross floor area of your uses are noted below (along with the applicable impact tax rate). The winery is in the Green subdivision policy area.

<i>Use Designation</i>	<i>Gross Floor Area</i>	<i>Tax Rate</i>	<i>Rate Category</i>	<i>Total for use</i>
F - Factory	3,417	\$11.20	Industrial	\$38,270.40
S - Storage	4,051	\$11.20	Other non-residential	\$45,371.20
A - Assembly	2,190	\$19.95	Retail	\$43,690.50
Total GFA	9,658		Total Impact Tax Due	\$127,332.10

Under the impact tax law, development is either “residential” or “nonresidential”. There is no use known as “agricultural”. Nonresidential uses include retail uses (the winery/tasting room) and industrial uses, like manufacturing (the wine production portion of the building). It is DPS’s practice to categorize the alcohol production portion of breweries, wineries and bourbon producers as manufacturing, which is an industrial rate.



Windridge Winery
Impact Taxes
Page
June 1, 2020

It is DPS's position that we have assessed and calculated the impact taxes for the winery appropriately. Impact taxes are due on this project February 26, 2021. I hope this information is useful to you. Please let me know if you have questions or need additional information.

Sincerely,

A handwritten signature in cursive script that reads "Gail M. Lucas". The signature is written in black ink and includes a long horizontal flourish at the end.

Gail M. Lucas, Manager
Residential Construction and Intake Division

Cc: Robert Butz, Owner, Windridge Vineyards
Mitra Pedoeem, Director, DPS
Charles L. Frederick, Associate County Attorney, Office of the County Attorney

Section 50-4.2. Approval Procedure

A. *Referral of plan.* After accepting an application, the Director must send a copy to the Development Review Committee and other reviewing bodies, requesting each agency to submit a recommendation concerning the plan. The Director must send copies, as needed, to:

1. WSSC, for water and sewer service;
2. the Department of Transportation, for roads, streets, intersection locations, site access, sight distances, traffic calming, paths, pedestrian and bicycle facilities (including bike share), parking, transit facilities, transportation demand management elements, and storm drainage within County-maintained rights-of-way and easements;
3. the Department of Permitting Services, for stormwater management, floodplain delineation, sanitation, wells, and septic systems;
4. the Montgomery County Department of Environmental Protection, for water and sewer adequacy and tree variances;
5. Montgomery County Fire and Rescue Service, for requirements for adequate fire protection and access;
6. the State Highway Administration, for right-of-way requirements and access on state roads;
7. any appropriate agency of the federal government;
8. any municipality that has filed a request with the Board for an opportunity to review subdivision or resubdivision plans for property located in that municipality;
9. Montgomery County Public Schools, for school site planning;
10. any other Montgomery County Executive agency, for the adequacy of public facilities and services and any proposed public use; and
11. local utility providers.



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Marc Elrich
County Executive

Aseem K. Nigam
Director

MEMORANDUM

TO: Pamela Dunn, Senior Legislative Analyst
Montgomery County Council

FROM: Aseem Nigam, Director *AKN*
Department of Housing and Community Affairs

DATE: November 2, 2020

SUBJECT: County Growth Policy Proposed Impact Tax Exemption for Qualified Opportunity Zone Developments

I am writing to express concerns about the County Growth Policy/Subdivision Staging Plan Planning Board Draft of July 30, 2020 recommendation for the extension of impact tax exemptions to all developments in a Qualified Opportunity Zones irrespective of affordability. Providing the exemption from impact taxes based solely on location in the Qualified Opportunity Zone will also eliminate the incentive to deliver 25% MPDUs to achieve the same benefit.

The exemption of impact taxes for residential developments in Qualified Opportunity Zones (QOZs) does not advance affordable housing objectives and will likely negatively impact availability of affordable housing in these census tracts. The federal capital gains benefits provide incentives for equity capital to invest in new construction residential development in the defined census tract, irrespective of affordability. As currently structured, Qualified Opportunity Zone investors target realizing capital gain tax benefits after ten years, which does not align with long-term affordable housing rent levels, creating specific advantage to market rate housing over affordable housing in these zones.

The areas in the County designated by the state as QOZs include areas with existing redevelopment incentives: Silver Spring and Wheaton CBDs; tracts abutting Rockville Pike between Twinbrook and Rockville; Montgomery College campus area in Gaithersburg; and the Longbranch/Langley Park Purple Line corridor. The County has made significant transit and amenity investments in these areas and exempting impact taxes would put additional pressure on affordability of existing housing.

Providing Impact Tax exemption on top of the QOZ federal tax incentives for market rate housing is inconsistent with the use of Impact Tax exemptions to address critical housing needs.

Office of the Director

1401 Rockville Pike, 4th Floor • Rockville, Maryland 20852 • 240-777-0311 • 240-777-3791 FAX • www.montgomerycountymd.gov/dhca