

## MEMORANDUM

September 26, 2020

TO: Planning, Housing, and Economic Development (PHED) Committee

FROM: Pamela Dunn, Senior Legislative Analyst  
Glenn Orlin, Senior Analyst

SUBJECT: 2020-2024 Subdivision Staging Policy (SSP) – School Issues

PURPOSE: Worksession – recommendations expected

**Expected Attendees for this Worksession:**

Casey Anderson, Chair, Montgomery Planning Board  
Gwen Wright, Director, Planning Department  
Tanya Stern, Deputy Director, Planning Department  
Jason Sartori, Chief, Countywide Planning Division, Planning Department  
Lisa Govoni, Housing Policy Coordinator, Countywide Planning Division  
Hye-Soo Baek, Senior Planner, Countywide Planning Division  
Meredith Wellington, Land Use Planning Policy Analyst, Office of the County Executive

**Councilmembers: Please bring your copies of the SSP Draft and Appendices to this worksession.**

This worksession of the PHED Committees will address recommendations from the Planning Board and its staff, the County Executive, the public hearing testimony, and Council staff regarding school-related SSP issues that were not addressed in the prior joint GO/PHED meeting; however, not all of the school-related SSP issues will be covered in one worksession. Another PHED Committee worksession on school-related SSP issues is scheduled for October 5. In this report each of the Planning Board's recommendations are referenced by its 'Rec' number followed by the page number in the Planning Board's Draft Report, in turn followed by its section and page number in the Draft SSP resolution, found in Appendix L (p. 86). For example, the recommendation on the Annual School Test Guidelines is referenced as "Rec. 4.3, (p. 43; S2, App. p. 89)."

**A. Annual School Test Guidelines and Utilization Report**

Section 8-32(c) of the County Code pertains to Planning Board procedures related to review of development applications. Subsection (4) specifically allows for the Planning Board to establish procedures to carry out its responsibilities. Rec. 4.3 (p. 43, App. P. 89) would require the Planning Board to adopt a set of Annual School Test Guidelines by January 1, 2021. The

Guidelines must outline the methodologies used to conduct the Annual School Test and to evaluate the enrollment impacts of development applications and master plans.

The data for the Annual School Test come from Montgomery County Public Schools (MCPS) enrollment projections and planned capacity, as reported in its annual Educational Facilities Master Plan. The Guidelines should note any unique specifications or interpretations related to planned capacity - for example, the circumstances under which a capital project at one school relieves overcrowding at another school. The Annual School Test Guidelines should also identify current student generation rates, and indicate, for regional student generation rates, which rates are to be used and for what purpose.

The SSP has always provided that the Planning Board not only review and approve the results of the Annual School Test, but to also approve the procedures used to conduct the test. The Annual School Test Guidelines would provide a transparent reference manual documenting how the test is conducted and how it is utilized. **Council staff supports Rec. 4.3 (p. 43, App. P. 89).** The Superintendent of MCPS also supports having Annual School Test Guidelines.

In addition to the Annual School Test Guidelines, the Planning Board proposes a Utilization Report accompany the Annual School Test results, Rec. 4.7 (pp. 46-47; S5, App. pp. 92-93). The report would include historical and projected countywide utilization rates by school level, and the share and number of schools at each level that fall into specified utilization categories such as up to 80 percent utilization, and between 80 and 100 percent utilization. Examples of the type of data to be conveyed are shown in Tables 7, 8 and 9 on page 48 of the Planning Board Draft.

Rec. 4.8 (p. 47; S5.2, App. p. 93) expands the content of the Utilization Report to include data and facility condition information for each school. The Planning Board Draft states that such information will be helpful in preparing master plans and in evaluating development applications. It goes on to state that this information would facilitate discussions between applicants and MCPS regarding ways a developer could make improvements to school facility conditions. This last part is tied directly to Rec. 6.3 (p. 92) which allows a school impact tax credit for any school facility improvement constructed or funded by a property owner with MCPS agreement. **Council staff supports Rec. 4.7 (pp. 46-47; S5, App. pp. 92-93) requiring that a Utilization Report accompany the Annual School Test; however, Council staff suggests a decision regarding Rec. 4.8 (p. 47; S5.2, App. p. 93) follow the GO Committee recommendation regarding impact tax credits for non-capacity improvements.** Individual school facility condition information is already provided by MCPS in their Educational Facilities Master Plan. If the Council adopts school impact tax credits for non-capacity adding improvements, providing school condition information in the annual Utilization Report may provide ease of access to planners as they review applications for development. However, if credits for these improvements are not allowed, duplication of effort in assembling and providing this information may not be necessary.

#### **B. Annual School Test Evaluation Levels**

The current SSP requires the Planning Board to assess school infrastructure adequacy through the Annual School Test no later than July 1 of each year. The test evaluates projected utilization rates at individual schools and across school clusters. When the test indicates that

capacity is an issue, the area in question (an individual school or a school cluster) is placed in a residential development moratorium. The Annual School Test is currently a two-tier test that evaluates the adequacy of 1) cluster capacity at each school level (elementary, middle, and high school) and 2) capacity at each individual elementary and middle school. The countywide adequacy standards used to evaluate each cluster and school are based on projected utilization rates five years in the future.

The 2016 SSP update introduced the individual school test. The individual school test intends to better capture the individual school experience. The cluster test, which takes a look at the cumulative utilization of all schools at the same level across a cluster, can mask overcrowding at individual schools when other schools at the same level are equally underutilized. However, since 2016, the opposite has also occurred. In the James H. Blake cluster, a few overcrowded elementary schools pushed the entire cluster, with otherwise fine utilization rates, into a residential development moratorium. If the individual school test were the only test used, parts of the cluster could have remained open to residential development in a part of the county that is eager for economic investment.

Planning Board Rec. 4.4 (pp. 43-44; S2, App. pp. 89-90) proposes conducting the Annual School Test for school utilization adequacy at the individual school level only, for each and every elementary, middle, and high school. Removing the cluster level test would eliminate the need to conduct complicated allocations of students caused by elementary and middle schools that articulate to more than one high school. There are currently 21 elementary schools and 14 middle schools that each feed into more than one high school. **Council staff supports the move to an individual school level test only, removing the requirement for a cluster level test.** The Executive supports the individual school level test. Likewise, the Superintendent of MCPS supports an individual school test as it aligns with the MCPS Capital Improvements Program (CIP) and Educational Facility Master Plan. The MCCPTA prefers a cluster level test be retained so that overutilized clusters can be identified, but that information already exists in the Educational Facility Master Plan. The City of Rockville and the testimony of Lerch, Early, and Brewer express support for this change.

### **C. Time Horizon for Annual School Test Projections**

Rec. 4.5 (pp. 44-45; S2.2, App. 90-91) proposes decreasing the time horizon used in evaluating projected school utilization from five years in the future to three. Rec. 4.5 also proposes modifications to the standards for adequacy against which applications for development will be judged. The adequacy piece of Rec. 4.5 will be discussed at a future PHED Committee worksession that will also cover Rec. 4.9 Moratoria and Rec. 4.16 Utilization Premium Payments.

As for the timeframe used to conduct the Annual School Test, the Planning Board Draft notes two primary concerns as the motivation for moving from a 5-year time horizon to a 3-year horizon. Projected utilization is based on existing and projected school capacity<sup>1</sup> compared to

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<sup>1</sup> Projected capacity includes capacity funded in the 6-year CIP.

projected enrollment. The Board's first concern is with the certainty of projected capacity. More specifically, counting capacity funded in the "out years" of the CIP, where delays are more likely to occur. The Draft states that among 61 projects completed in the past 10 years, at least six were delayed one year, and at least three were delayed two years. However, that also means more than 50 projects experienced no delay. While the scheduled funding of capital projects is not immutable, the funding of the County's CIP is a commitment to facility needs and, far more often than not, funded projects proceed as planned<sup>2</sup>.

The Board's other concern is the relative reliability of enrollment projections three and five years in the future. The shorter timeframe for projecting enrollment will yield a more accurate result. MCPS currently develops an enrollment forecast for each year of the 6-year CIP, as well as a 10-year forecast for all schools and a 15-year forecast for secondary schools. MCPS also re-evaluates the preliminary fall enrollment projections every spring. In addition, during the 2017–2018 school year, the school system worked with an external consultant to develop a new enrollment forecasting methodology. The new methodology includes four models, a model of the average percentage annual increase in enrollment, a cohort survival model, a linear regression, and a student-per-housing unit model. It isn't yet known how well the four-model system will improve forecasting, so there isn't a clear measure of the accuracy to be gained by moving to a shorter time horizon.

Last, but not least, is the purpose of the test. One cannot argue that enrollment projections and capacity funding three years in the future will be known with more certainty than in five years. However, the purpose of the test is to evaluate the impact of proposed development. If, on average, residential projects are completed, occupied, and sending students to the neighborhood school in three years or five years, then testing the adequacy of school facilities should match this time frame. Recognizing that there will be some projects that get built faster than the average, the question is what time horizon is a realistic expectation of the impact of approved development?

To try an answer this question, Council staff, with the help of Planning staff and staff at the Department of Permitting Services, reviewed building permit data on all residential projects approved since 2010. Comparing the date of Planning Board approval to the date of the final building permit for each unit, staff found an average time to completion of 4 years and 7 months. **Council staff supports retaining the current 5-year time horizon used in evaluating projected school utilization.** The Executive supports the shift to a 3-year time frame. The Superintendent of MCPS does not, stating that "a capital project approved in the first year of the six-year CIP may not be completed within a three-year window, thus not allowing the capacity to be counted in the Annual School Test. While it is possible for projects to be delayed, shortening the Annual School Test window may result in unintentional outcomes". The City of Rockville, the Town of Chevy Chase, and the MCCPTA support the 3-year timeframe for the reasons cited by the Planning

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<sup>2</sup> The Planning Board Draft also notes that over the past 10 years, 14 projects (less than 2 per year) identified to be opened in the out years of the CIP were removed – however, the Draft also notes that these projects were removed because they were no longer needed - due to the planned implementation of another solution or due to a change in enrollment.

Board. Testimony from Lerch, Early, and Brewer expresses opposition to the 3-year timeframe as the current 5-year timeframe is better aligned with the County's CIP process.

#### **D. Annual School Test Applicability**

The current SSP requires the Annual School Test to include the number of additional students a school can accommodate before reaching the moratorium threshold<sup>3</sup>. This number is also referred to as the staging ceiling capacity. Currently, an application for development cannot be approved if the number of students generated by the application exceed the staging ceiling capacity of any school served by the proposed development. Rec. 4.6 (pp. 45-46; S2, App. 89-91) proposes the Annual School Test establish each school service area's adequacy status for the entirety of the fiscal year. The Annual School Test would still determine each school service area's status, such as "open", or "utilization payment required", or "in moratorium". And each application for development would be reviewed against this determination; however, the number of students generated by the application would not be evaluated against the staging ceiling.

The staging ceiling is based on projected enrollment data gathered by MCPS in the fall of each year. Once the budget process concludes in the spring, the projected enrollment data (from the prior fall<sup>4</sup>) and the projected capacity (as a result of the adopted CIP) determine the results of the Annual School Test and establish the staging ceiling capacity. As noted in the Planning Board Draft, many have argued that the current process places too much emphasis on a false level of precision. Consider an application for approval being evaluated in December or January, the staging ceiling capacity against which the application is judged will be based on projected enrollment data that is more than a year old, and could prevent the project from moving forward if its enrollment impact is one student greater than the staging ceiling capacity. This is the current process for evaluation.

On the other hand, some have argued that the current evaluation of staging ceiling capacity should be *even stricter* by removing available student capacity as each application is approved. This not only implies an even greater level of false precision, but would make it difficult for any prospective applicant to know the adequacy status of a school service area since it could change at any time<sup>5</sup>.

**Council staff supports the Planning Board recommendation.** Because MCPS updates projections annually, incorporating development pipeline data (including any application approved since the prior projection analysis), and the school test is conducted annually based on the most current MCPS projections, there is ample time for MCPS enrollment projections to reflect prospective development by the time it is expected to impact school enrollment. The Executive,

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<sup>3</sup> Regardless of whether the threshold for evaluation is for moratorium or an additional utilization payment, Rec. 4.6 is about how applications are evaluated with respect to an adequacy threshold.

<sup>4</sup> 1-year projections are adjusted in the spring to inform staffing decisions and the placement of relocatables.

<sup>5</sup> Based on prior approvals.

the Town of Chevy Chase, the MCCPTA and several of its members support the strictest staging ceiling evaluation which would remove available staging ceiling capacity throughout the year as projects are approved. The Superintendent of MCPS did not comment on this recommendation. The testimony of Lerch, Early, and Brewer, and the MBIA support the Board's recommendation.

**If the Committee is concerned with the Planning Board's "red light-green light" approach, Council staff suggests retaining the current evaluation process that would limit the approval of any project whose school enrollment impact exceeds the available staging ceiling capacity for the applicable school service area.**

**E. Recommendations not included in the Draft SSP resolution.**

The following are recommendations for which the Planning Board seeks concurrence, but they are not included in the SSP resolution.

**1. Retest school adequacy for any applicant seeking an extension of APF Validity**

Rec. 4.14 (p. 58; App. M pp. 108-110) would amend Chapter 50, Article II, Section 4.3.J.7 of the County Code to require a development application to be retested for school infrastructure adequacy when an applicant requests an extension of their Adequate Public Facilities validity period. Currently, the County Code limits the validity of an adequate public facilities (APF) approval for an approved preliminary plan to "no less than 5 and no more than 10 years after the preliminary plan is approved." If an applicant requests an extension of the APF validity period, the Code requires that the applicant demonstrate it has secured financing and met other markers indicating that the project is moving forward. The Code also allows the Planning Board to require the applicant to submit an updated traffic study "to demonstrate how the extension would not be averse to the public interest."

Currently, an extension of the APF validity period does not address any potential change in school facility conditions. Recognizing that school conditions and school tests change over time, Rec. 4.14 proposes an amendment to the Chapter 50 that would require an updated schools APF determination for any remaining unbuilt residential units utilizing the school infrastructure adequacy test in place at the time of the Planning Board's review of the extension request.

The purpose of an APF extension request is to allow an applicant additional time to implement a project under the terms of the original approval. An applicant cannot propose any additional development as part of the request, nor can the Board require additional public improvements or other conditions. Given this, is it reasonable to request an applicant for an extension of APF be retested for school facility adequacy? One could argue that following the original approval, student enrollment impacts were factored into school enrollment projections and therefore should not be reevaluated. However, given the 5-10 year original APF validity period, an applicant seeking extension will be at or past the "5-years in the future" adequacy benchmark of the original school test and thus could be facing a very different school facility scenario.

Under Chapter 50 today, the Board “may request” an applicant show, through use of an updated traffic study, how the validity extension would not be adverse to the public interest. Under rec. 4.14 the Board would require the applicant to retest school facility adequacy. **Council staff suggests allowing the Board to have discretion over the extent to which an applicant should be required to retest school adequacy, as is the case with transportation adequacy.** The Executive supports the amendment to Chapter 50. The Superintendent did not comment. The testimony from Lerch, Early and Brewer opposes the recommendation to retest, as does testimony from the MBIA.

2. Expand the role of the MCPS representative to the Development Review Committee

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. The 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 composition of the DRC is specified in the Subdivision Ordinance, Section 50-4.2(A). An MCPS representative is a required participant of the DRC, when the application under review involves school site planning. The Planning Board recommends expanding the role of the MCPS representative to involve review and comment on all applications proposing residential development.

Should the Council wish to expand MCPS’s role in DRC to address student capacity issues, then a bill amending Section 50-4.2(A)(9) should be introduced. **Council staff supports the change and recommends it be codified in a bill amending the applicable section of the Subdivision Ordinance.** The Executive and the Superintendent of MCPS support his recommendation, as does the MCCPTA, Lerch, Early, and Brewer, the MBIA and many others.

| This packet contains:   | <u>Circle #</u> |
|---|-----------------|
| Excerpt of County Executive Comments                            | 1-2             |
| Excerpt of letter from the Superintendent of MCPS               | 3-4             |
| Excerpt of testimony from the MCCPTA                            | 5-9             |
| Excerpt of testimony from the City of Rockville                 | 10              |
| Excerpt of testimony from Lerch, Early, and Brewer              | 11-12           |
| Excerpt of testimony from the Maryland Building Industry Assoc. | 13              |

*Schools Recommendations: Annual School Test and Utilization Report*

4.3 By January 1, 2021, the Planning Board must adopt a set of Annual School Test Guidelines which outline the methodologies used to conduct the Annual School Test and to evaluate the enrollment impacts of development applications and master plans.

**The CE believes that to the extent that the Planning Board uses new methodologies in the Annual School Test, those should be disclosed now, and reviewed by the County Council.** Planning Staff should also consult with MCPS.

4.4 The Annual School Test will be conducted at the individual school level only, for each and every elementary, middle and high school, for the purposes of determining school utilization adequacy.

**The CE is open to discussing borrowing as a general policy to ameliorate school overcrowding.** Borrowing needs to be discussed by the County Executive, the Council and MCPS to develop a policy that is workable and benefits the students and the school.

**The CE opposes borrowing that is done ad hoc to allow particular projects to proceed that would otherwise be in moratorium, as described below.**

At the SSP work sessions the Planning Board had a long discussion about finding that school had adequate capacity if a nearby school Y had unused capacity, or was overcrowded, but less overcrowded than X school. The Planning Board has added a special test for Clarksburg in Recommendation 4.11 whereby a school could be considered adequate based on the capacity of a school 10 miles away being at 105% capacity. The CE does not support that proposal.



4.5 [The Annual School Test will evaluate projected school utilization three years in the future using the following school utilization adequacy standards:](#)

| School Adequacy Standards |  | Adequacy Status         |                       |                     |
|---------------------------|--|-------------------------|-----------------------|---------------------|
| Projected Utilization     | Projected Seat Deficit                                 | Greenfield Impact Areas | Turnover Impact Areas | Infill Impact Areas |
| > 120%                    | N/A  | UP Payment Required     | UP Payment Required   | UP Payment Required |
| > 125%                    | ≥ 115 seats for ES<br>≥ 188 seats for MS<br>N/A for HS | Moratorium              |                       |                     |

The CE supports the Draft's use of three years rather than the current five years because it is much easier to predict school enrollment three years out.

4.6 [The Annual School Test will establish each school service area's adequacy status for the entirety of the applicable fiscal year.](#)

This is a return to the "snapshot" test that resulted in exacerbating overcrowding as many schools got closer to the margin of 120%. **The CE does not support the snapshot test. The CE supports a cumulative test that tracks enrollment throughout the year because it is more accurate in capturing SGRs.**

**THIS RECOMMENDATION WILL INCREASE SCHOOL OVERCROWDING.**

4.7 [The Annual School Test will include a Utilization Report that will provide a countywide analysis of utilization at each school level.](#)

**The CE does not understand the purpose of a countywide Utilization Report.**

4.8 [The Utilization Report will also provide additional utilization and facility condition information for each school, as available.](#)

**The CE only supports in-kind developer contributions that add to school capacity, not air conditioning or improvements like that.** There also need to be objective standards so that the contribution can be measured, and compared to other in-kind contributions.

4.14 [Amend Chapter 50, Article II, Section 4.3.J.7. of the County Code to require a development application to be retested for school infrastructure adequacy when an applicant requests an extension of their Adequate Public Facilities validity period.](#)

**The CE agrees.**

4.15 [Require MCPS to designate a representative to the Development Review Committee to better tie the development review process with school facility planning. Ensure this representative has appropriate authority to represent MCPS' official positions.](#)

**The CE agrees.**

# MONTGOMERY COUNTY PUBLIC SCHOOLS

*Expanding Opportunity and Unleashing Potential*

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## OFFICE OF THE SUPERINTENDENT OF SCHOOLS

1. *Adopt a set of Annual School Test Guidelines, which outline the methodologies used to conduct the Annual School Test and to evaluate the enrollment impacts of development applications and Master Plans.* The proposed recommendation would provide a formal and detailed process to be used to conduct the Annual School Test. Having these guidelines-transparent and easily accessible---established would be beneficial to all County stakeholders.
2. *The Annual School Test will be conducted at the individual school level only, for each and every elementary, middle, and high school, for the purpose of determining school utilization adequacy.* The current SSP provides for an individual school test as well as a cluster test to evaluate school utilization throughout the County. The proposed recommendation would eliminate the cluster test, thereby avoiding an area to be designated as inadequate as a result of several schools exceeding the established threshold. Utilizing the individual school test for all facilities would align with our CIP and Master Plan, which provide enrollment and utilization information for every school in the district.
3. *The Annual School Test will evaluate projected school utilization three years into the future using a newly established utilization adequacy standards.* The current SSP evaluates projected school utilization five years into the future, which allows a capital project to be planned, constructed, and completed in a six-year planning period. If a capital project is approved in the first year of the six-year plan, completion will not occur within the three-year window; therefore, this would not allow the capacity to be counted in the Annual School Test. While it is possible for projects to be delayed, shortening the Annual School Test window may result in unintentional outcomes.

With respect to the utilization adequacy standards, the recommended 120 percent utilization that would trigger a new Utilization Premium Payment may align with the MCPS process to consider a capital project for schools that exceed capacity. However, depending on the capacity of the school, the 120 percent threshold for payment could result in enrollment deficits that are greater than those generally used to consider a capacity project before generating funds. MCPS guidelines generally analyze capital solutions when schools exceed capacity by 92 seats at an elementary school, 150 seats at a middle school, and 200 seats at a high school.

4. *Require MCPS to designate a representative to the Development Review Committee to better tie the development review process with school facility planning. Ensure this representative has appropriate authority to represent MCPS's official positions.* MCPS supports and welcomes the opportunity to continue to collaborate with Montgomery County Planning staff as it relates to residential development and school facility planning.

The MCPS representative will be well versed in these matters; however, there may be times, as it relates to certain issues, when the Board of Education would need to provide its position.

- ✓ 4.3: *By January 1, 2021 the Planning Board must adopt a set of Annual School Test Guidelines which outline the methodologies used to conduct the Annual School Test and to evaluate the impact of development applications and master plans.*

We welcome published School Test Guidelines, particularly as they relate to overcrowded schools in the absence of moratoria or any other mandated action where school capacity is inadequate. MCCPTA would like to participate in establishing these guidelines. Nothing in this policy explains how the Planning Board is expected to interpret or act on the proposed Utilization Reports, and more structure from Council is necessary to make these standards as required by the APFO.

- ✓ 4.4: *The Annual School Test will be conducted at the individual school level only, for each and every elementary, middle, and high school, for the purposes of determining school utilization adequacy.*

MCCPTA initially supported this recommendation, however the original policy draft included the following language referring to original recommendation *Staff Draft 4.12*:

In Turnover Impact Areas and Infill Impact Areas, **the test will identify schools requiring Planning Board review of school adequacy**, the standards for which are discussed in Recommendation 4.4. With less emphasis on automatic moratoria, and more on Planning Board review of school adequacy, it also makes sense to simplify the process of identifying which schools require Planning Board review. **If an individual school serving the proposed development exceeds the adequacy thresholds, it will require the Planning Board to view data pertaining to the utilization and facility conditions at the school and other nearby schools.**

In the absence of Planning Board review of, we have concerns that badly overutilized clusters might be overlooked without a cluster test for elementary and middle schools.

- ✓ 4.5: *The Annual School Test will evaluate projected school utilization three years in the future using current utilization adequacy standards.*

MCCPTA supports this change. MCPS's five-year forecast is notoriously bad. MCPS families and other Montgomery County community members have complained about forecasting accuracy and transparency for decades. MCPS's recent efforts to update their forecasting methodology showed no improvement on either front. For a number of reasons, the three-year forecast is an improvement.

1. MCPS forecasting is more accurate in the near years. It's not good, but it's better. MCPS consistently underestimates enrollment in our overutilized schools, with increasingly unreliable numbers in the out years (and specifically the currently used test year). Testing at three years instead of five will mean testing against more reliable forecasts.
2. The shorter period allows for much more insight and accuracy with regards to development in the pipeline. MCPS can incorporate what is permitted and under way, or about to commence, without having to speculate about the likelihood (or percent) of expected completion of residential projects and subsequent enrollment increases.
3. Programmed school capacity projects in the first three years the CIP are relatively reliable, and many are in fact in the construction phase at that point. Projects contemplated in the last three years of the CIP are often delayed or even removed. A three-year projection is more accurate on the capacity side as well as the enrollment side.

In short, a three-year test timeframe will greatly improve public confidence in the forecast and the School Test, and we fully endorse evaluating utilization three years in the future instead of five.

We do not support an increase in the moratorium threshold from 120% to 125%. Overutilization of 125% is a severe burden on a school, and with a greater likelihood in the three-year window.

- ✖ 4.6: *The Annual School Test will establish each school service area's adequacy status for the entirety of the applicable fiscal year.*

MCCPTA adamantly opposes this change. The Planning Board and some County Councilmembers are aware that in adopting the staging ceiling in 2007, Council intended the staging ceiling to measure the available capacity of schools on an annual basis, and to measure the cumulative impact of approved development against available capacity. In practice, this has not been implemented as adopted, which has led to an unknown increase in overcrowding and lost revenue.

Now the Planning Board goes even further in the wrong direction, and does not meet the requirements of Chapter 50 of the County Code, specifically Subdivision Regulation Section 4.3.J.2, "The Board may only approve a preliminary plan when it finds that public facilities will be adequate to support and service the subdivision," and Section 10.3.A.1, "the Board must provide analyses of current growth **and the amount of additional growth that can be accommodated** by public facilities and services" (emphasis added). It is unambiguous that the amount of additional growth – the *cumulative* impact of that additional growth – is supposed to be evaluated against existing and planned facilities.

Here are 3 examples to illustrate this:

- 1) *As adopted and intended in 2007: Projects are tracked cumulatively against available capacity.*  
Flower Elementary School is at 118% of capacity, with 16 available seats before exceeding 120%.

- Apartment building A will generate 14 students and is approved because 14 students does not exceed 16 available seats.
- Apartment building B will generate 14 students and must be denied or modified to generate less than 2 students to meet adequacy standards; cumulative impact tracking means that development A plus B will trigger moratorium (or payments).

One project can be approved but not both, because 28 students exceeds 16 available seats

2) *As implemented: Each project is measured individually against available capacity.*

Flower Elementary School is at 118% of capacity, with 16 available seats before exceeding 120%.

- Apartment building A will generate 14 students and is approved because 14 students does not exceed 16 available seats.
- Apartment building B will generate 14 students and is also approved because 14 students does not exceed 16 available seats.

In this scenario, the total students generated is 28, exceeding available capacity by 12 students and resulting in overcrowding and lost revenue.

3) *As proposed in 2020: No projects are measured against available capacity.*

Flower Elementary School is at 118% of capacity, with 16 available seats before exceeding 120%.

- The service area is “open” for the year and all projects can proceed regardless of impact – 14 students or 140 students, everything is approved.

In this scenario, subdivisions of hundreds or even thousands of homes can be approved, adding unlimited students to an already crowded school with no imminent solution.

|            |   |
|------------|---|
| Scenario 1 | Cumulative impact is tracked and approval must be denied after available capacity is reached.                       |
| Scenario 2 | Projects are measured individually against available capacity and each project under the threshold can be approved. |
| Proposed   | Once adequacy is determined for the year there is no limit to the number of projects that can be approved.          |

Since automatic moratoria will not prevent development from proceeding in Infill and Turnover areas (the majority of the county), this is only relevant for calculating utilization premium payments. Cumulative impact should undoubtedly be tracked for purposes of funding the entirety of the capacity that will be needed. This “red light, green light” approach flies in the face of any earnest efforts to uphold an APFO.

As discussed further below, the Planning Board voted to delete *Staff Draft 4.12*, and therefore also this language referring to it:

The school’s capacity adequacy requires detailed review by the Planning Board. Per Recommendation 4.12, the Planning Board will be provided with information pertaining to the subject school facility, nearby schools at the same school level (elementary, middle or high) and the estimated enrollment impacts of the proposed development. The Planning Board would then make the school facility adequacy determination.

The policy is completely undermined by the elimination of mandatory Planning Board review from the Staff Draft.



- 4.7: *The Annual School Test will include a Utilization Report that will provide a countywide analysis of utilization at each school level.*

This recommendation is largely moot in the absence of *Staff Draft 4.12*, however MCCPTA supports an annual countywide analysis of utilization at each school level. Only existing and planned capacity within the three-year test window can be used for evaluating proposed development. Decisions cannot be based on hypothetical solutions contemplated by the Planning Board or County Council. Only actual planned actions are relevant in planning and approving development. Per 4.7, “the capacity impacts of any placeholder project will not be counted.”

- 4.8: *The Utilization Report will also provide additional utilization and facility condition information for each school, as available.*

Moot in the absence of *Staff Draft 4.12*, however MCCPTA supports the inclusion of additional facility information in the Utilization Report. IF Planning Board review is reinstated, this could be incredibly useful in assessing the condition of school conditions. MCPS has expressed a willingness to work closely with Planning to share information and coordinate efforts. It would be incredibly beneficial if MCPS long range planning and the Planning Board could align.

- 4.14: *Amend Chapter 50, Article II, Section 4.3.J.7. of the County Code to require a development application to be retested for school infrastructure adequacy when an applicant requests an extension of their Adequate Public Facilities validity period.*

MCCPTA enthusiastically supports this recommendation. Circumstances can change dramatically in 5-10 years, in all school impact areas, and retesting all infrastructure should be mandatory.

- 4.15: *Require MCPS to designate a representative to the Development Review Committee to better tie the development review process with school facility planning. Ensure this representative has appropriate authority to represent MCPS’s official positions.*

MCCPTA enthusiastically supports this recommendation. MCPS can provide valuable insight to the Planning Board, and likewise has much to gain by being apprised of development activity, particularly the target market for a project, and anticipated timing. Likewise, MCPS can benefit from staying apprised of area developments and proposed mitigations (transportation, recreation) near schools.

MCCPTA asks that we be recognized as a Reviewing Agency so that the appropriate Area Vice President can be included on the Development Review Committee. At very least, the MCCPTA Area Vice President should be notified and included where the Annual School Test results are over 105%.





City of Rockville  
111 Maryland Avenue  
Rockville, Maryland  
20850-2364  
[www.rockvillemd.gov](http://www.rockvillemd.gov)

240-314-5000  
TTY 240-314-8137

We fully support Recommendation 4.4 that 'The Annual School Test will be conducted at the individual school level only, for each and every elementary, middle and high school, or the purposes of determining school utilization adequacy'. We understand that the alternative cluster test undercounts overcrowding at individual schools. We also support Recommendation 4.5 that 'The Annual School Test will evaluate projected school utilization three years in the future' rather than a five-year time horizon. Shorter timeframes lead to more accurate projections and programming of construction funding.

MAYOR  
Bridget Donnell Newton

COUNCIL  
Monique Ashton  
Beryl L. Feinberg  
David Myles  
Mark Pierzchala

CITY MANAGER  
Robert DiSpirito

September 11, 2020

- 4.3 *By January 1, 2021, the Planning Board must adopt a set of Annual School Test Guidelines which outline the methodologies used to conduct the Annual School Test and to evaluate the enrollment impacts of development applications and master plans.*

Comments: We support this recommendation.

- 4.4 *The Annual School Test will be conducted at the individual school level only, for each and every elementary, middle and high school, for the purposes of determining school utilization adequacy.*

Comments: We support this recommendation (i.e., we support eliminating the cluster test).

- 4.5 *The Annual School Test will evaluate projected school utilization three years in the future using the following school utilization adequacy standards [see chart on page 44 of the Planning Board Draft].*

Comments: We support the adequacy standards identified on the chart on page 44 of the Planning Board Draft because they are superior to the current Subdivision Staging Policy standards. But we also support elimination of potential moratoria in the Greenfield Impact Area (see Recommendation 4.9). We also oppose the recommended change from the five-year timeframe to the three-year timeframe for school adequacy testing. The five-year timeframe is

more consistent with the County CIP process (six years) and more reliably reflects when students from new development will actually enroll.

- 4.6 *The Annual School Test will establish each school service area's adequacy status for the entirety of the applicable fiscal year.*

Comments: We support this recommendation.

- 4.7 *The Annual School Test will include a Utilization Report that will provide a countywide analysis of utilization at each school level.*

Comments: We support this recommendation.

- 4.8 *The Utilization Report will also provide additional utilization and facility condition information for each school, as available.*

Comments: We do not oppose providing additional information for each school. We also do not oppose, in principle, the observation that "The information would also facilitate discussions between developers and MCPS about potential ways the developers can make improvements to school facility conditions (roof replacements, HVAC system upgrades, etc.)" provided that the costs of any such improvements can be credited against applicable school impact taxes (consistent with Recommendation 6.3).

- 4.14 *Amend Chapter 50, Article II, Section 4.3.J.7. of the County Code to require a development application to be retested for school infrastructure adequacy when an applicant requests an extension of their Adequate Public Facilities validity period.*

Comments: We oppose this recommendation. Extension requests are intended to preserve the original approval for the time period necessary to implement the project, and are not intended to subject the approval to a new Adequate Public Facilities test that could jeopardize the very project that is to be extended. Projected student generation from an approved project already is factored into background school capacity calculations and should not be difficult to monitor. If the Council feels differently, this additional testing requirement should be discretionary, as is the Planning Board's current ability to request additional traffic information for an extension. Under no circumstances should a moratorium be imposed on the project.

- 4.15 *Require MCPS to designate a representative to the Development Review Committee to better tie the development review process with school facility planning. Ensure this representative has appropriate authority to represent MCPS's official positions.*

Comments: We support this recommendation.

**MBIA - 2020-2024 Growth Policy**  
**- Recommendations / Positions**

| <b>Index of Recommendations</b> | <b>5/28/2020 Recommendations</b>   | <b>Support</b> | <b>Neutral</b> | <b>Oppose</b> |
|---------------------------------|--|----------------|----------------|---------------|
| 4.5                             | The Annual School Test will establish each school service area's adequacy status for the entirety of the applicable fiscal year.   | X              |                |               |
| 4.14                            | Amend Chapter 50, Article II, Section 4.3.J.7. of the County Code to require a development application to be retested for school infrastructure adequacy when an applicant requests an extension of their Adequate Public Facilities validity period.  |                |                | X             |
| 4.15                            | Require MCPS to designate a representative to the Development Review Committee to better tie the development review process with school facility planning. Ensure this representative has appropriate authority to represent MCPS' official positions. | X              |                |               |