

MEMORANDUM

October 2, 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, Office of the County Executive
Essie McGuire, Montgomery County Public Schools
Mary Beck, Office of Management and Budget
Pofen Salem, Office of Management and Budget

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

This worksession of the PHED Committee will address recommendations from the Planning Board and its staff, the County Executive, the public hearing testimony, and Council staff regarding the remaining school-related SSP issues; those that were not addressed in the prior GO/PHED Committee and PHED Committee meetings of September 30. Another PHED Committee worksession on SSP issues is scheduled for October 13 to cover any follow up items on transportation and/or school-related SSP issues. 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)."

School Adequacy Standards and Residential Development Moratorium

Recommendations 4.5, (pp. 44-45; S2.2, App. 90-91), 4.9 (pp. 51-52; S2.2, App. pp. 90-91) and 4.16 (pp.59-60; S3, App. p. 91) all relate to utilization adequacy standards and the rules that apply when a school service area is deemed overutilized. In addition to proposing a three-year time horizon to evaluate projected school utilization (covered in the last PHED Committee worksession¹), Rec. 4.5 proposes new utilization adequacy standards as the basis for the Annual School Test, shown in Table 1 below.

Table 1.

School Adequacy Standards		Adequacy Status			
Projected Utilization	Projected Seat Deficit	Greenfield Impact Areas	Turnover Impact Areas	Infill Impact Areas	Rec.
> 120%	N/A	Utilization Premium Payment Required	Utilization Premium Payment Required	Utilization Premium Payment Required	Rec. 4.16
> 125%	≥ 115 seats for ES ≥ 188 seats for MS N/A for HS	Moratorium			Rec. 4.9

The above recommendations would:

- (1) Place different standards for adequacy based on school impact area; current adequacy standards apply countywide.
- (2) Replace the moratorium standard for Turnover and Infill Impact Areas with a Utilization Premium Payment (UPP).
- (3) And, in the Greenfield Impact Area, where the moratorium standard is retained, raise the threshold from school utilization greater than 120 percent to utilization over 125 percent, and require a UPP when utilization exceeds 120 percent up to the moratorium threshold.

Moratoria

Under the current SSP, when schools reach 120 percent capacity utilization, the affected area goes into a moratorium, which means the Planning Board cannot approve new residential development. A moratorium lasts until the applicable school utilization drops below the moratorium threshold – typically evaluated at the next Annual School Test.

¹ The Committee supported (3-0) a 4-year time horizon.

Those in favor of a moratorium standard hold that even a small number of additional students can be a burden to overutilized facilities and should therefore be curbed. While this idea seems reasonable, it is important to emphasize that placing a moratorium on development, that contributes only 25-30 percent to enrollment growth, will not stop the construction of already approved units, nor will it stop the more than 70 percent enrollment growth associated with the turnover of existing housing. A moratorium will potentially stem some additional enrollment growth, the question is whether stopping the approval of residential development outweighs other County policy priorities, such as filling the County's housing supply gap, providing attainable, affordable housing, and supporting economic growth that contributes to the County's financial resources. The Planning Board Draft elaborates on several County priorities that are affected by a moratorium on residential construction²:

- (1) A moratorium slows the County's ability to address its housing supply gap. The county needs an additional 10,000 housing units by 2030 to meet future housing demand from population and job growth³. Multifamily residential development, in particular, serves a critical role in fulfilling the County's projected housing demand and achieving housing affordability goals. The recently completed Housing Needs Assessment, Housing Forecast by Type and Tenure suggests that by 2040, more than half of the new housing needed to accommodate new households over the 2020-2040 period is projected to be multifamily rental housing.
- (2) A moratorium impacts housing affordability. By restricting the supply of housing in the face of increasing demand for it, moratoria can apply upward pressure on housing prices. This affects not only the County's market rate affordable housing, but also the County's Moderately Priced Dwelling Unit (MPDU) program, as any restriction on new residential development, also restricts the MPDUs it would have provided.
- (3) A moratorium affects economic development. Moratoria directly affect important aspects of the County's economic health by stopping new mixed-use development that provides benefits beyond housing. Residential development helps strengthen the County economy by investing in the community, creating local jobs, and increasing the tax base. Additionally, new mixed-use development adds public amenities, shopping, restaurants and gathering spaces that attract new residents to the County.
- (4) A moratorium impacts sustainable growth patterns. By halting development in desired growth areas, moratoria can result in increased growth elsewhere, potentially inhibiting sustainable growth patterns.
- (5) A moratorium will not solve school overcrowding. Stopping development does not solve overcrowding in the County's schools. As noted above, less than 30 percent of the County's enrollment growth can be attributed to new development. In many of the County's single-family neighborhoods, school enrollment continues to increase (regardless of a moratorium, and in many cases without any new development) due to turnover of the existing housing stock.

² Paraphrased below.

³ This is beyond the existing 31,000 housing units already forecasted through the most recently completed MWCOG forecast process, Round 9.1.

However, moratoria limit the collection of school impact tax revenue, which is specifically dedicated to fund school capacity across the County.

- (6) A moratorium raises equity concerns. In general, MCPS does not make its capital improvements decisions based on the County's land use, economic or development priorities. However, pressure from developers and community members along with a desire to avoid many of the issues noted above, can lead the Council to prioritize the funding of projects for schools at risk of moratorium. Under constrained capital budgets, these decisions may delay projects at other schools with overcrowding and/or substandard facilities located in areas with a lack of development interest or not yet reaching the moratorium level. These schools can often have less-engaged parent advocates and a disproportionate share of high-needs students. Less pressure to focus on projects that relieve potential moratoria could allow funding to be distributed without this added and potentially inequitable strain.

The fundamental question for the Committee is whether it is in the best interest of the County to retain moratoria on residential development when school utilization reaches a certain threshold. Many of the testimonies received regarding moratoria focus on the relative merits of applying a moratorium adequacy standard to only the Greenfield School Impact Area. However, the testimony of Lerch, Early, and Brewer, the MBIA, and the Lantian Development Corporation supports the elimination of the moratorium standard Countywide, primarily citing the numerous adverse impacts to other County policy goals.

If the Committee believes a moratorium adequacy standard has outlived its usefulness for the County, then the Committee should skip to the Addendum⁴ on Utilization Premium Payments (UPP), as the UPP are being recommended as an alternative to moratoria and the following recommendations regarding moratoria are not needed.

If the Committee believes moratoria serve a purpose that should be retained, then the Committee must also decide the following:

- (1) Should moratoria on residential development apply countywide or apply to only certain School Impact Areas?*

The Planning Board Draft suggests moratoria only apply to the Greenfield School Impact Area, as this area exhibits the highest student generation rate. In lieu of a moratorium in the Turnover and Infill School Impact Areas, the Board recommends a utilization payment equal to a maximum of 60 percent of the impact tax per structure type⁵.

⁴ UPP information will be produced as an addendum to the report.

⁵ Over utilization at all three school levels would result in a payment equal to 60 percent of the applicable impact tax.

This is an unprecedented departure from prior SSPs/Growth Policies with respect to school adequacy. To date, the adequacy of a school has been judged equivocally across the County; any school with a utilization rate and seat deficit that meets the moratorium threshold is considered so overcrowded that any additional students (that can be controlled by the approval of new development) should not be allowed.

The Planning Board's regional approach to moratorium contends that this concern (that at some level any additional student is too much) is only warranted in the Greenfield School Impact Area because each unit of approved development there will produce more students than the same unit built elsewhere in the County. This logic implicitly assumes equal or more development in the Greenfield location (and development of structure types that generate the most students per unit), but what if the magnitude or pace of development in the other areas, take an Infill Area in high demand, is greater than that occurring in the Greenfield Area. The relative impact of new development on the Infill Area school could be greater.

Attached on © 1-2 is the Pipeline of Approved Development for Downtown Bethesda and Clarksburg showing the number and types of housing units approved for development and the number of units remaining to be built. In Downtown Bethesda there are approximately 6,100 multifamily units in the pipeline. In Clarksburg there are approximately 1,800 units in the pipeline (1,100 single-family, 700 multifamily). Applying the applicable regional student generation rates (by structure type) to the entire pipeline in each area yields about twice as many elementary students in Clarksburg as in Downtown Bethesda. However, there are two elementary schools serving Downtown Bethesda, Bethesda ES and Somerset ES, with a combined seat deficit in four years of approximately 100 student seats. In Clarksburg there are eight elementary schools that serve the planning area, with a combined seat surplus in four years of 247 seats. No one anticipates the pipeline of development to build out in four years nor what projects will be added to it in that time. However, comparing Downtown Bethesda and Clarksburg, **if** both did build out in four years, taking into consideration the types of units approved, their relative student generation rates and the available elementary school capacity in four years, they end up in about the same place. Both planning areas would be facing an elementary school seat deficit of approximately 330 seats. There is no way to know which of the eight elementary schools in Clarksburg would be affected the most in this example, but with only two elementary schools serving Downtown Bethesda, its likely both would be significantly overutilized. This simplified example has Downtown Bethesda developing three times faster than Clarksburg, but that's the piece of this that is unknown, the pace of development. It only shows that the potential for overcrowding is more than just differences in student generation rates, and depending on the pace of development, Infill and Turnover areas can be just as likely to experience significant issues with school capacity.

So, should a limitation on overcrowding be acceptable for certain schools and not others? Do all schools warrant the same treatment? If they do, then this argues for a Countywide standard, it does not advocate for or against moratorium but demonstrates, in Council staff's opinion, that

considerations that limit overutilization in one area should be applied Countywide. **Council staff supports Countywide adequacy standards.** The Executive does not support limiting the moratorium adequacy standard to the Greenfield School Impact Area. The MCCPTA is not in favor of limiting the moratorium based on the recommended structure of the utilization payments and other elements of the draft; numerous residents echoed these remarks. Testimony from the Coalition for Smarter Growth supports the regional moratorium standard, as does the testimony of Ms. Slater, and Mr. Wilhelm.

(2) What level of school utilization warrants a moratorium on residential development?

Whether applied Countywide or only to the Greenfield School Impact Area, there are several options the Committee can consider in deciding the level of utilization that should trigger a moratorium.

- Current moratorium threshold of 120 percent. The 120 percent threshold has been in place since 2007. It has resulted in several clusters and numerous school services areas being placed in moratorium. In 2016, with the introduction of the individual school test, the 120 percent threshold was combined with a seat deficit threshold, recognizing the minimum seat deficits used by MCPS to consider requesting funds for additional capital infrastructure.

A primary concern with the current threshold is that it is set too low – meaning it regularly impacts the priority of capital programming in order to avoid it. When it cannot be avoided, residential development in the school service area is halted. Potentially lessening the growth in enrollment from the 25-30 percent that comes from new development, at the expense of all residential development.

- Planning Board Draft recommendation of 125 percent. Increasing the moratorium threshold standard from 120 percent to 125 percent⁶ would lessen the impact of the concerns mentioned above. It would result in seven (out of 13) fewer school service areas being placed in moratorium.
- Planning Board and Board of Education recommendation of 135 percent in 2007. When major changes to the SSP were introduced in 2007, particularly the move from calculating school capacity based on “growth policy capacity” to calculating it based on program capacity, a 135 percent moratorium threshold was recommended by both the Planning Board and the Board of Education⁷. The higher threshold was recommended in conjunction with a 110% threshold for the requirement to make a School Facility Payment (similar to the UPP proposed in this SSP)

⁶ Under 4-year enrollment and capacity projections as agreed to by the Committee (3-0) on Sept 30

⁷ If the School Facility Payment was not approved, the BOE suggested a 110% moratorium threshold.

under the premise that a wider threshold between a school facility payment and moratorium would produce more needed revenue for capital programming.

- City of Gaithersburg’s moratorium adequacy standard of 150 percent.

Table 2 below provides a comparison of school services areas that would be in moratorium under the various moratorium threshold standards applied Countywide under a 4-year projection horizon.

Table 2.

School Service Areas in Moratorium Under Various Thresholds⁸			
4-year Projections			
120%	125%	135%	150%
High Schools			
Montgomery Blair			
Winston Churchill			
Clarksburg			
Albert Einstein	Albert Einstein		
Walter Johnson	Walter Johnson	Walter Johnson	
R. Montgomery			
Quince Orchard	Quince Orchard	Quince Orchard	
Middle Schools			
Argyle			
Elementary Schools			
Bannockburn	Bannockburn	Bannockburn	
Bethesda	Bethesda		
Diamond			
Greencastle			
Highland View	Highland View	Highland View	
Mill Creek Towne	Mill Creek Towne	Mill Creek Towne	Mill Creek Towne
Judith A. Resnik			
Watkins Mill			

If the moratorium adequacy standard applies only to the Greenfield School Impact Area, the Clarksburg High School service area would be the only area in moratorium under a 120 percent utilization threshold, and no school service area would be in moratorium at the higher thresholds.

Because many of the elements of the adequacy standards and rules, when applied in combination, result in different outcomes, below is a comparison of school services areas that would be in moratorium under the various moratorium threshold standards applied Countywide under a 5-year projection horizon.

⁸ Threshold = percent utilization and applicable seat deficit based on MCPS standard 92, 150, 200 (es,ms,hs) adjusted by threshold percentage over 100 percent.

Table 3.

School Service Areas in Moratorium Under Various Thresholds⁹			
5-year Projections			
120%	125%	135%	150%
High Schools			
R. Montgomery			
Quince Orchard	Quince Orchard	Quince Orchard	
Middle Schools			
Argyle			
Elementary Schools			
Highland View	Highland View	Highland View	
Mill Creek Towne	Mill Creek Towne	Mill Creek Towne	Mill Creek Towne
Judith A. Resnik			

If the moratorium adequacy standard applies only to the Greenfield School Impact Area, no school service areas would be in moratorium, at any threshold.

Before making a recommendation on the moratorium threshold standard, the Committee should consider Rec. 4.11 (p. 53; App. 4.1.3, p. 92) as it provides flexibility in the implementation of moratoria. Rec. 4.11 would allow the Planning Board to approve residential development in an area under a moratorium if a school (at the same level as any school causing the moratorium) is located within 3, 5, or 10 network miles (ES, MS, or HS, respectively) of the proposed subdivision and has a projected utilization less than or equal to 105 percent.

This new condition is similar to a provision allowed in early versions of the school SSP which allowed for “borrowing” of capacity. If a neighboring or adjacent cluster had sufficient capacity at the same school level to offset the overutilization of the cluster in question, then moratoria could be avoided. “Borrowing” was removed from the SSP in the early 2000’s due to concern that while cluster level capacity may be sufficient, the school at the same level with sufficient capacity and the school needing capacity could be located at opposite ends of their respective clusters.

The Planning Board’s recommendation allows for “borrowing” 3, 5, or 10 network miles (ES, MS, or HS, respectively) from the proposed development to a school service area with sufficient capacity. This could result in “borrowing” capacity from a non-adjacent school service area or from outside the cluster boundary. This is an important distinction, the premise of “borrowing” does not require MCPS to modify school boundaries but has been based, in the past, on the idea that programmatic or service areas changes between adjacent schools at the same

⁹ Threshold = percent utilization and applicable seat deficit based on MCPS standard 92, 150, 200 (es,ms,hs) adjusted by threshold percentage over 100 percent.

school level within a cluster are plausible. **Council staff suggests “borrowing” be limited to a physically adjacent school service area within the same cluster at the same school level.**

In addition to distance, Rec. 4.11 states that the projected utilization of the “non-moratorium” school must be less than or equal to 105 percent. Under the Planning Board Draft this means that an overutilized school service area (over 100 percent), that is not adjacent, nor in the same school cluster, can serve as an exemption to a moratorium. **Council staff believes that any use of another school service area within a cluster as an exemption to moratorium should result in a combined utilization that does not exceed 100 percent, and a combined seat deficit that is no greater than 92 or 150 student seats at the elementary and middle school level, respectively.** This would require that the adjacent school service area (at the same school level) has enough capacity so that neither school would be over utilized. Again, the exemption does not require MCPS to make the boundary change but recognizes that programmatic or service area changes are not only plausible but could be achieved such that neither school is made worse off. The Executive and the Superintendent both expressed support for the concept of “borrowing”; however, the Superintendent stressed that while plausible actual boundary changes may not always be practical, and if they do the adjacent school must be able to accommodate the additional students without itself becoming overcapacity – in terms of utilization and seat capacity. The MCCPTA does not support “borrowing”. And the testimony of Lerch, Early and Brewer indicates support for it.

Below is the result of a moratorium exemption for sufficient adjacent capacity.

Table 4.

Schools Exempt from Moratorium due to Sufficient Adjacent Capacity (4-year Projections) (Collective Utilization \leq 100% and seat deficit < 150 MS, 92 ES)				
	Moratorium School	Minimal Impact Neighbor	Collective Utilization	Collective Seats
MS				
	Argyle	Lee	98.0%	38
ES				
	Bethesda	Rosemary Hills/CC/NCC	96.2%	77
	Highland View	Woodlin	92.9%	73
	Judith A. Resnik	Sequoyah	98.9%	11
	Watkins Mill	McAuliffe	93.1%	97

The table below shows the impact of an adjacent capacity exemption on the results of moratoria at various thresholds.

School Service Areas in Moratorium Under Various Thresholds Adjusted for Sufficient Adjacent Capacity 4-year Projections			
120%	125%	135%	150%
High Schools			
Montgomery Blair			
Winston Churchill			
Clarksburg			
Albert Einstein			
Walter Johnson			
R. Montgomery			
Quince Orchard	Quince Orchard	Quince Orchard	
Middle Schools			
Argyle			
Elementary Schools			
Bannockburn	Bannockburn	Bannockburn	
Bethesda	Bethesda		
Diamond			
Greencastle			
Highland View	Highland View	Highland View	
Mill Creek Towne	Mill Creek Towne	Mill Creek Towne	Mill Creek Towne
Judith A. Resnik			
Watkins Mill			

School Service Areas in Moratorium Under Various Thresholds Adjusted for Sufficient Adjacent Capacity 5-year Projections			
120%	125%	135%	150%
High Schools			
R. Montgomery			
Quince Orchard	Quince Orchard	Quince Orchard	
Middle Schools			
Argyle			
Elementary Schools			
Highland View	Highland View	Highland View	
Mill Creek Towne	Mill Creek Towne	Mill Creek Towne	Mill Creek Towne
Judith A. Resnik			

Again, for context, below is the table showing the impact of an adjacent capacity exemption on the results of moratoria at various thresholds under a 5-year projection horizon

Council staff recommends raising the moratorium threshold to a level significant enough to remove pressure on capital programming decisions while still providing a limit to

the extent of overcrowding allowed, and that the moratorium threshold should be set in coordination with the recommendations for the Utilization Premium Payment. The Executive does not support increasing the moratorium threshold. The Superintendent does not specifically comment on a moratorium threshold standard.

Other Exemptions to a Residential Development Moratorium

Before moving to the discussion on UPP, there are two additional exemptions related to moratoria. One is Rec. 4.12, (pp. 53-54; S4.1, App. p. 92) which proposes the elimination of the moratorium exception adopted in 2019 pertaining to projects providing high quantities of deeply affordable housing or projects removing condemned buildings. In 2019, the County Council amended the SSP to include an exception to moratoria for residential development if the development is estimated to generate 10 students or fewer at any school and either replaces a condemned or previously condemned and vacant structure located within or abutting an Opportunity Zone; or produces more than 50 percent of its units as affordable to households earning 60 percent or less of area median income.

According to the Planning Board Draft, the recommendation to limit moratoria to Greenfield Areas removes the need for such an exception. **If the Committee chooses a Countywide moratorium standard, then Council staff sees value in retaining the exception; however, if the Committee chooses to support a regional moratorium standard, then the first part of the above exception could be seen as unnecessary. The second part of the exception, related to affordable housing, seems appropriate everywhere in the County and should be retained regardless of a regional standard.**

The other exemption, Rec.4.10 (p. 52; S4.1, App. p. 92), is related to senior living units and the definition of de minimis. Rec. 4.10 would provide a moratorium exception for projects estimated to net fewer than one full student at any school in moratorium, and projects where the residential component consists entirely of senior living units.

The recommended de minimis exception of projects estimated to generate fewer than one full student (on average) at any school in moratorium is a change from the current SSP, which exempts projects of “three units or fewer.” Using the number of students as the threshold directly connects the exception to the impact on enrollment. It also accounts for both the type and number of units built. Compared to the SSP’s current de minimis exception of three units or fewer, this new exception is a little more lenient and would allow small scale residential projects to be approved. **Council staff supports this change.**

This packet contains:	<u>Circle #</u>
Pipeline of Approved Development (Downtown Bethesda, Clarksburg)	1-2
Excerpt testimony of County Executive	3-5

Excerpt testimony of Superintendent of MCPS	6
Excerpt testimony of MCCPTA	7-8
Excerpt testimony of Lerch, Early, and Brewer	9-10
Excerpt MBIS comments	11

Downtown Bethesda –Pipeline of Approved Development Sept. 2020					
<u>Plan Number</u>	<u>Project Name</u>	<u>Units Approved</u>	<u>Unbuilt Units</u>	<u>Unbuilt SF Units</u>	<u>Unbuilt MF Units</u>
11981068B	4 Bethesda Metro Center	479	479	0	479
119840580	Edgemont at Bethesda II	282	160	0	160
119940800	7340 Wisconsin Avenue	225	225	0	225
120060290	Rugby Condominium	61	60	0	60
120090140	Woodmont Central	455	221	0	221
120120200	7900 Wisconsin Avenue	475	475	0	475
11981068B	4 Bethesda Metro Center	479	479	0	479
12015020B	St. Elmo Apartments	279	279	0	279
120160050	8008 Wisconsin Avenue	106	106	0	106
120160220	8015 Old Georgetown Road	297	295	0	295
120160380	7272 Wisconsin Ave	456	456	0	456
120170250	The Claiborne	84	84	0	84
120180140	ZOM Bethesda	230	230	0	230
120180210	4915 Auburn Avenue	180	180	0	180
120180280	8280 Wisconsin/Woodmont Central	453	453	0	453
120190050	7607 Old Georgetown Road	200	200	0	200
120190060	8000 Wisconsin	441	441	0	441
120190190	Metro Tower	366	366	0	366
120190240	Battery District	1,130	1,130	0	1,130
120200070	4824 Edgemoor Lane	77	77	0	77
820200100	4702 West Virginia Avenue	19	19	0	19
Total		6,495	6,136	0	6,136

Elementary Schools serving Downtown Bethesda	4-year Projections			
	Enrollment	Capacity	Seat Deficit/Surplus	Utilization
Bethesda	734	560	-174	131.1%
Somerset	441	515	+74	85.6%

Clarksburg - Pipeline of Approved Development Sept. 2020					
<u>Plan Number</u>	<u>Project Name</u>	<u>Units Approved</u>	<u>Unbuilt Units</u>	<u>Unbuilt SF Units</u>	<u>Unbuilt MF Units</u>
119950420	Clarksburg Town Center	1,118	78	42	36
120031100	Cabin Branch	2,386	953	453	500
120050030	Linthicum West Property	253	252	252	0
120050950	Tapestry	67	67	67	0
120060780	Shiloh Church Road	1	1	1	0
120080150	Ridge View Estates	5	4	4	0
120080240	Garnkirk Farms	392	288	104	184
120090330	Piedmont Road	4	2	2	0
120150060	The Courts at Clarksburg	140	17	17	0
120160160	Dowden's Station	105	103	103	0
120180110	Avalon Residential	50	50	50	0
Total		4,521	1,815	1,095	720

Elementary School serving Clarksburg ¹	4-year Projections			
	Enrollment	Capacity	Seat Deficit/Surplus	Utilization
Cedar Grove	341	402	+61	84.8%
Clarksburg	264	311	+47	84.9%
Little Bennett	638	624	-14	102.2%
Snowden Farm	897	774	-123	115.9%
Wilson Wims	628	739	+111	85.0%
William B. Gibbs Jr.	602	719	+117	83.7%
Lois P. Rockwell	484	530	+46	91.3%
Woodfield	379	381	+2	99.5%

¹ A CIP project (P651901) that will reassign students among Clarksburg ES, Cedar Grove ES, Wilson Wims ES and Clarksburg ES #9 in September 2023.



OFFICE OF THE COUNTY EXECUTIVE
Rockville, Maryland 20850

Marc Elrich
County Executive

September 10, 2020

Schools Recommendations: Residential Development Moratorium

4.9 Moratoria will only apply in Greenfield Impact Areas. The Planning Board cannot approve any preliminary plan of subdivision for residential uses in an area under a moratorium, unless it meets certain exceptions.

As stated before, the CE does not support leaving moratorium in place only in Clarksburg. He believes that there must be an emergency button—an outside limit on school overcrowding—that stops residential development in any area of the county where schools are severely overcrowded. As currently written, there is no outside limit or cap for overcrowding in the county, except in Clarksburg.

The CE also does not support the Planning Board's weakening of this recommendation for moratorium in Clarksburg by deleting the word "automatic" to describe moratoria, and carving out complicated exceptions that increase school overcrowding.

THIS RECOMMENDATION WILL INCREASE SCHOOL OVERCROWDING.

[4.10 Exceptions to residential development moratoria will include projects estimated to net fewer than one full student at any school in moratorium, and projects where the residential component consists entire of senior living units.](#)

The CE has no objection.

[4.11 Establish a new exception that allows the Planning Board to approve residential development in an area under a moratorium if a school \(at the same level as any school causing the moratorium\) is located within 3, 5, or 10 network miles \(ES, MS, or HS, respectively\) of the proposed subdivision and has a projected utilization less than or equal to 105 percent.](#)

The CE opposes this exception because it increases school overcrowding.

THIS RECOMMENDATION WILL INCREASE SCHOOL OVERCROWDING.

[4.12 Eliminate the moratorium exception adopted in 2019 pertaining to projects providing high quantities of deeply affordable housing or projects removing condemned buildings.](#)

The County Executive supports the recommendation of DHCA.

DHCA—The existing exception would be helpful to retain, with the limitations that Student Generation Rate calculation of under 10 students and the property must provide 50% affordable housing.

[4.13 Calculate countywide and School Impact Area student generation rates by analyzing all single-family units and multifamily units built since 1990, without distinguishing multifamily buildings by height.](#)

It is important to have the most accurate SGRs possible for two reasons: 1) in order to anticipate overcrowding early enough to remedy it, and 2) in order to assure that the developer pays his fair share.

The CE does not support merging multi-family buildings when calculating SGRs.

Multi-family--The Planning Board Draft, p.54, notes "a major difference" between the SGR when high and low-rise multi-family are counted separately. When calculated separately, low-rise generates on average 3.58 times more students than high rise. The result is an overall higher SGR than when the SGR is calculated for all multi-family units, low and high, without distinguishing between high and low-rise. This discrepancy needs to be resolved. Otherwise, the Planning Staff should continue to calculate high and low rise multi-family separately.

Single-Family--Planning Staff recognizes that for single family homes, there is a debate about how to count new houses that were built as a result of tear downs. The Planning Board is of the view that students from new houses/teardown are part of turnover, so long as the new home is built less than a year after the teardown. Using this categorization, 23.3% of all new students are attributable to new development. (SSP work session, June 18, 5:36:26--5:40:50)
Planning Staff has calculated what the percentage would be if new homes/teardown

were included as new construction--27.6%--an additional 4.3%. (Staff Presentation to Planning Board, March 26)There were 848 homes in this category.

The CE agrees with ULI's recommendation that new homes/teardown be counted as new construction, and any students generated counted in the SGR.

The ULI said, in part:

The panel understands the interpretation of the staff research and recommendation. However, the panel suggests that the county take into consideration the following in revising the policy:

- The impact fee is a single event from a funding perspective; the generation of that fee on what is essentially a "new construction" event (despite the fact that an existing home is being replaced) is important in terms of generation of revenue.
- The imposition of an impact fee is a progressive revenue source; the cost of that fee can, and probably will be, rolled into a future mortgage, amortizing the fee over a long period of time.

September 10, 2020

5. *Moratoria will only apply in Greenfield Impact Areas.* Under the current SSP, if a school reaches 120 percent utilization, the area enters moratorium. The proposed recommendation would allow for potential moratoria only in areas that have new development and generate much of the enrollment growth. Providing school capacity for students is a priority for MCPS as well as addressing aging infrastructure and upgrading and replacing many building systems. These priorities compete with other priorities in the county, resulting in fiscal limitations. MCPS will continue to prioritize capital projects based on capacity and infrastructure needs across the system and continue to request the funding necessary to meet those needs.

6. *Establish a new exception that allows the Planning Board to approve residential development in an area under a moratorium if a school (at the same level as any school causing the moratorium) is located within 3, 5, or 10 network miles (ES, MS, or HS, respectively) of the proposed subdivision and has a projected utilization less than or equal to 105 percent.* This recommendation does provide some latitude regarding moratorium; however, this exception does make certain assumptions. While MCPS always considers boundary reassignments during its review of capacity concerns during the CIP process, the reassignment must consider a number of factors, including projected trends in enrollment and utilization, and stability of school assignment over time. On paper, the “borrowing” of adjacent capacity may be beneficial; however, actually reassigning students from one school to another in order to approve residential development may result in unintentional consequences such as shifting

overutilization from one school to another. This is especially the case if that school is at or is approaching 105 percent utilization.

To: Council President Katz and Members of the Montgomery County Council
Re: 2020-2024 County Growth Policy
Date: September 10, 2020
Via: Email

- 4.9: *Moratoria will only apply in Greenfield Impact Areas. The Planning Board cannot approve any preliminary plan of subdivision for residential uses in an area under a moratorium, unless it meets certain exceptions.*

MCCPTA supported this recommendation with the caveat that something take the place of moratoria in Infill and Turnover areas as well. The Impact Areas as treated here are designed more to steer development than to address the capacity challenges distinct to each Area, and the expense of that is borne directly by our schools.

There is no safety measure, no hard stop, even in the most extreme circumstances. The elimination of *Staff Draft 4.12* means that development will be allowed to proceed under any all circumstances outside of Greenfield impact Areas.

A policy isn't measured by how it performs in ideal circumstances, it's measured by what happens when things go wrong. We believe there should be a reinstatement of *some* "forcing factor," even if it is far less stringent. For example, we could impose a one-year moratorium in cases where a school is forecast to reach 150%, or where a school is over capacity (actual enrollment) by 120% for three years in a row without a programmed solution. Alternatively, moratorium in cases where a school has been over 120% for 5+ years and continues in the 3-year test. This is a situation where a school is left to languish, with no relief in sight. (At very least there should be a list of such schools when Council reviews the CIP.)

The question is this: What is the mechanism to get the attention of MCPS, Planning and Council?

This draft Growth Policy enumerates the downside of moratoria, but fails to acknowledge that moratoria almost always result in funding for affected schools in areas of desired growth, which raises equity concerns. This is not an optimal solution, but it is better than a policy with no mechanism whatsoever. This policy solves the "moratoria problem," but fails to address the underlying problems, and fails to link development and infrastructure in any meaningful way.

- ✓ 4.10: *Exceptions to residential development moratoria will include projects estimated to generate net fewer than one full student at any school in moratorium, and projects where the residential component consists entirely of senior living units.*

In the event that moratoria apply on in Greenfield Areas, MCCPTA approves of the changes to exceptions to moratoria.

Smaller projects like these have a high likelihood of proceeding; the impacts on any single school must be tracked cumulatively.

“Blighted” building, or residential buildings that are not currently occupied, should not net empty units against estimated impacts.

- ✗ 4.11: *Establish a new exception that allows the Planning Board to approve residential development in an area under a moratorium if a school (at the same level as any school causing the moratorium) is located within 3, 5, or 10 network miles (ES, MS, or HS, respectively) of the proposed subdivision and has a projected utilization less than or equal to 105 percent.*

MCCPTA opposes exceptions based on nearby capacity. “Borrowing” was disallowed in 2007 with very good reason. Adequacy must be linked to reality.

1. This policy is too complicated in general, with too many SGR’s, tax rates, discounts and exceptions. If we believe moratorium is a legitimate tool in Greenfield areas, then we should use it. We shouldn’t write a policy with one hand and simultaneously undermine it through a multitude of exceptions with the other.
2. We cannot test against hypothetical capacity. The school test is the school test, and the Planning Board cannot make decisions based on anything other than actual planned capacity projects and/or boundary changes. Planning Board has no authority to instigate such changes.
3. Unless and until the Planning Board, County Council and MCPS schools are aligned on systematic and regular boundary changes, nearby capacity is utterly irrelevant. It has nothing to do with the reality for teachers, students and administrators.
4. Nearby capacity as an exception to moratoria could set precedent for exception to utilization premium Payments.

- 4.12: *Eliminate the moratorium exception adopted in 2019 pertaining to projects providing high quantities of deeply affordable housing or projects removing condemned buildings.*

If moratoria are applicable only in greenfield Impact Areas, this exception will be moot.



September 11, 2020

Schools Recommendations: Residential Development Moratorium

4.9 *Moratoria will only apply in Greenfield Impact Areas. The Planning Board cannot approve any preliminary plan of subdivision for residential uses in an area under a moratorium, unless it meets certain exceptions.*

Comments: We support the recommendation to eliminate the automatic moratoria within the Turnover and Infill Impact Areas for the reasons outlined in the Planning Board Draft (pages 50-51). But for those same reasons, we support elimination of the automatic moratoria in the Greenfield Impact Area as well (*i.e.*, moratoria should be eliminated across the entire County consistent with many other jurisdictions as set forth in Appendix I). The Clarksburg area is important for meeting the County's housing goals, and the single-family housing market is important particularly in the face of the existing pandemic. New development should be allowed to move forward within the Greenfield Impact Area without an automatic moratorium, but with payment of the applicable Utilization Premium Payment, as described in Recommendations 4.5 and 4.16, if any of the elementary, middle, or high school levels are over 120% capacity. We support making the entire County consistent in that regard.

Critically, if moratoria is not eliminated within the Greenfield Impact Area altogether, then we ask the County Council at least to support the Planning Board Recommendations 4.5 and 4.11, which provide relief from the current Subdivision Staging Policy to enable two residential projects to move forward. The vast majority of planned development in Clarksburg has already been approved. There are, however, two pending residential projects, filed under the current

Subdivision Staging Policy rules and the school capacity calculations confirmed last November. Both projects would have satisfied the school capacity test when they were filed. Without the relief identified in Recommendations 4.5 (125% capacity prior to triggering moratoria) and 4.11 (potential borrowing), however, the revised school calculations for 2022, combined with the new proposed Growth Policy standards for a three-year test rather than a five-year test, would prevent these two projects from obtaining approval for an undetermined period of time. This result is particularly troubling because the boundary adjustment approved last year for Clarksburg High School was intended to address the capacity issues. (There is ample elementary and middle school capacity for both projects). We ask the County Council to support Recommendations 4.5 and 4.11 to enable these two pending projects to be approved. Their impact on high school capacity will be minimal and spread over a period of years, by which time other projects such as the Damascus expansion will address any concerns.

4.10 Exceptions to residential development moratoria will include projects estimated to net fewer than one full student at any school in moratorium, and projects where the residential component consists entirely of senior living units.

Comments: We support the recommended exceptions. The *de minimus* exception should be clear in being interpreted as net additional units. For example, a project that proposes to remove one unit and build three new units should be considered two units (net additional units) for purposes of calculating the school impact and meeting the *de minimus* exception.

4.11 Establish a new exception that allows the Planning Board to approve residential development in an area under a moratorium if a school (at the same level as any school causing the moratorium) is located within 3, 5, or 10 network miles (ES, MS, or HS, respectively) of the proposed subdivision and has a projected utilization less than or equal to 105 percent.

Comments: We support this recommended exception if a moratorium exists, but we support elimination of potential moratoria altogether (*see* discussion under Recommendation 4.9).

4.12 Eliminate the moratorium exception adopted in 2019 pertaining to projects providing high quantities of deeply affordable housing or projects removing condemned buildings.

Comments: We oppose this recommendation. If any portions of the County are subject to potential moratoria, then this exception should remain.

MBIA - 2020-2024 Growth Policy - Recommendations / Positions					
Index of Recommendations	5/28/2020 Recommendations	Final PB Draft Recommendations	Support	Neutral	Oppose
4.9 NEW		Moratoria will only apply in Greenfield Impact Areas. The Planning Board cannot approve any preliminary plan of subdivision for residential uses in an area under a moratorium, unless it meets certain exceptions.			X

MEMORANDUM

October 4, 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

This addendum continues the evaluation of school adequacy standards and the rules that apply when a school service area is deemed overutilized. More specifically, this report evaluates Rec. 4.16 (pp.59-60; S3, App. p. 91) which establishes the Utilization Premium Payment (UPP), a fee paid by an applicant when a school’s projected utilization¹ exceeds 120 percent. The Planning Board would apply the UPP to each School Service Area, shown in Table 1 below.

Table 1.

Planning Board Draft Recommendation 4.5					
School Adequacy Standards		Adequacy Status			
Projected Utilization	Projected Seat Deficit	Greenfield Impact Areas	Turnover Impact Areas	Infill Impact Areas	Rec.
> 120%	N/A	Utilization Premium Payment Required	Utilization Premium Payment Required	Utilization Premium Payment Required	Rec. 4.16
> 125%	≥ 115 seats for ES ≥ 188 seats for MS N/A for HS	Moratorium			Rec. 4.9

Utilization Premium Payment

According to the SSP Draft, if the schools serving a residential development project are over capacity, the developer will be required as a condition of preliminary plan approval to make a Utilization Premium Payment. The payment would be made by the developer when it applies for a building permit, based on the Annual School Test in effect at that time. If multiple schools

¹ 4-years in the future. At Sep. 30 worksession Committee voted (3-0) to a 4-year time horizon.

serving the project site exceed the given threshold then payments are required for each. The Utilization Premium Payments are based on a percentage of the applicable standard impact tax rates, as shown in Table 2, below. The factors vary by school level to reflect the relative impact housing units have on student enrollment at each level.

Table 2.

School Level	Payment Factor
Elementary	25% of the standard impact tax rate for the School Impact Area and dwelling type
Middle	15% of the standard impact tax rate for the School Impact Area and dwelling type
High	20% of the standard impact tax rate for the School Impact Area and dwelling type

Table 3 identifies the Utilization Premium Payment rates² by School Impact Area, school level and dwelling unit type.

Table 3.

School Impact Area	School Level	Single-family Detached	Single-family Attached	Multifamily Low-Rise	Multifamily High-Rise
Infill Impact Area	Elementary	\$4,927	\$4,328	\$1,612	\$798
	Middle	\$2,956	\$2,597	\$967	\$479
	High	\$3,941	\$3,462	\$1,290	\$639
Turnover Impact Area	Elementary	\$5,396	\$5,982	\$2,889	\$582
	Middle	\$3,237	\$3,589	\$1,733	\$349
	High	\$4,316	\$4,786	\$2,311	\$465
Greenfield Impact Area	Elementary	\$8,452	\$7,173	\$7,355	-- ³
	Middle	\$5,071	\$4,304	\$4,413	--
	High	\$6,762	\$5,738	\$5,884	--

There are several elements of the Utilization Premium Payment that warrant discussion:

- Who should be required to make a payment? Or, more precisely, what are the adequacy standards that determine which applicants will be required to make a UPP?
- What should they pay? Basically, what is a reasonable fee to pay when a school is overutilized? Should the fee increase as utilization increases?

² Based on 100 percent of the cost of a student seat as recommended by the Planning Board.

³ Student Generation Rate cannot be calculated, too few student records for this structure type – alternative rate TBD.

- When should they pay? Typically impact taxes and fees are paid at the time a building permit for residential construction is approved based on the rates in effect at that time.

There are two factors that should determine whether a Utilization Premium Payment is required (as established by the Annual School Test). One, as the Planning Board suggests, is the school utilization rate. The Board recommends that development in any school service area where utilization exceeds 120 percent be required to make a Utilization Premium Payment (UPP).

Is 120 percent the right threshold?

In lieu of a moratorium standard in the Turnover and Infill Impact Areas, the Planning Board suggests a Utilization Premium Payment kick in at the current threshold for moratorium. The former version of the UPP, the School Facility Payment (SFP), was created to as a way to slow the pace of development (based on the premise that some projects would choose not to move forward due to the added cost) while collecting additional funds for school facilities (from those that did) before facilities became too overutilized. If utilization at any school level within a cluster exceeded 105 percent, a School Facility Payment (SFP) was required.

In 2016, the SFP was dropped in lieu of raising impact taxes to 120 percent of the cost of a student seat.⁴ Although a GO Committee issue, for reference, the Planning Board is recommending the impact tax be adjusted back to 100 percent of the cost of a student seat. If this occurs, then there may be interest in requiring applicants to contribute to school facilities as they become more crowded, rather than waiting until they reach a level currently considered inadequate. **Council staff suggests that development in any school service area where utilization exceeds 105 percent be required to make a Utilization Premium Payment (UPP).** The Executive supports increasing impact taxes in place of the UPP; however, if the Council chooses to implement the UPP, the threshold should be set at 105 percent. The MCCPTA also supports setting the UPP threshold at 105 percent utilization. The testimony of Lerch, Early and Brewer, and the MBIA supports to use of UPP as an alternative to moratorium; both have some concerns regarding the reevaluation process at the time of payment (this concern is covered later in this report).

Should seat deficit be added to the standard?

The current two-tier adequacy test takes into account differences in school size through the use of seat deficit as a second measure of adequacy. In its Capital Facilities Master Plan, MCPS states that while their primary measure of adequacy is utilization, with 80-100 percent being the target for each facility. Seat deficit information is used in capital planning as the threshold for

⁴ The Council raised it from 100% to 110% to reflect land in the cost/student, and a further 10% as an offset to the revenue loss from eliminating the SFP.

consideration of an addition to an existing facility. For an elementary school, the seat deficit threshold is 92 student seats, for a middle school it's 150 seats, and for a high school it's 200 seats. **Council staff suggests retaining the two-tiered approach with respect to setting thresholds for Utilization Premium Payments, and moratoria if retained**). The Superintendent supports Utilization Premium Payments noting they should be based not only on utilization but on seat deficits as well. Table 4 below shows the applicable revision to the Adequacy Standards Table under Rec. 4.5 (p.44; S2.2, App. p. 91).

Table 4.

School Adequacy Standards		Adequacy Status			
Projected Utilization	Projected Seat Deficit	Greenfield Impact Areas	Turnover Impact Areas	Infill Impact Areas	Rec.
> 105%	≥ 92 seats for ES ≥ 150 seats for MS ≥ 200 seats for HS	Utilization Premium Payment Required			Rec. 4.16

What should applicants pay in areas with overutilized schools?

The proposed UPP, like the prior SFP, are both calculated based on a percentage of the impact tax. Impact taxes are paid by dwelling unit type, and under the proposed SSP by School Impact Area. The UPP must be apportioned to school level too so that it can be implemented to match the adequacy test which is applied to each school. The Planning Board Draft uses a factor reflective of the relative impact a particular structure type has on student enrollment at each school level. And like the SFP, the Planning Board proposes the UPP be based on 60 percent of the impact tax⁵ (if all three school levels are inadequate).

However, before deciding on the rate the Committee should consider that if the moratorium threshold is raised, or eliminated, this provides an opportunity to take a two-tiered approach to the UPP. The Committee could recommend setting one rate at 105 percent utilization up to 120 percent (or some other threshold) then setting a higher rate at 120 percent up to another threshold (perhaps 135 percent) – which would then trigger moratorium or could trigger a third tier UPP, if there is no moratorium standard. **Council staff suggests setting the UPP threshold at 105 percent, calculated at 30 percent of the impact tax rate, up to 120 percent. Between 120 percent and 135 percent, the UPP would increase to 60 percent of the impact tax, and 135 percent would trigger moratorium.**

Below are several options for the Committee to consider including the threshold for implementing the UPP, the threshold for moratorium, if applicable, and the UPP rate. The Committee has recommended a 4-year time horizon for the evaluation of school utilization, this

⁵ Calculated at 100 percent of the cost of a student seat (currently impact taxes are based on 120 percent of the cost).

choice plus whether the Committee chooses to retain moratoria (and if so, how) have implications for the how the Committee may choose to set the UPP threshold(s) and rates. Table 5 shows the 4-year projection horizon under various utilization thresholds. Table 6 shows the Planning Board’s recommendation under 3-year projections and the effect of moving to a 4-year projection. And Table 7 shows Council staff’s suggestion with a 5- and 4-year projection; however, there are many other possibilities. For reference attached on © 1-2 are tables showing school service areas under various utilization thresholds using 3-year and 5-year projections.

Table 5.

School Service Areas Under Various Utilization Thresholds⁶				
4-year Projections				
105%	120%	125%	135%	150%
High Schools				
M. Blair	M. Blair			
J. H. Blake				
W. Churchill	W. Churchill			
Clarksburg	Clarksburg			
Albert Einstein	Albert Einstein	Albert Einstein		
Gaithersburg				
Walter Johnson	Walter Johnson	Walter Johnson	Walter Johnson	
R. Montgomery	R. Montgomery			
Northwest				
Quince Orchard	Quince Orchard	Quince Orchard	Quince Orchard	
Middle Schools				
Argyle	Argyle			
Elementary Schools				
Ashburton				
Bannockburn	Bannockburn	Bannockburn	Bannockburn	
L. Barnsley				
Bethesda	Bethesda	Bethesda		
Burning Tree				
Burtonsville				
Diamond	Diamond			
Farmland				
Greencastle	Greencastle			
Highland View	Highland View	Highland View	Highland View	
Mill Creek	Mill Creek	Mill Creek	Mill Creek	Mill Creek
J. A. Resnik	J. A. Resnik			

⁶ And applicable seat deficits

Table 6.

Planning Board Recommendation 3-year Projections Change to 4-year Projections	
Utilization Threshold	
120%	125%
Utilization Premium Payment 60% of Impact Tax	Moratorium Greenfield School Impact Area
High Schools	
M. Blair	
W. Churchill	
Clarksburg	
Albert Einstein	
Walter Johnson	
R. Montgomery	
Quince Orchard	
Middle Schools	
Argyle	
Elementary Schools	
Ashburton	
Bannockburn	
Bethesda	
Burning Tree	
Burtonsville	
Diamond	
Greencastle	
Highland View	
Mill Creek	
W. T. Page	
J. A. Resnik	
South Lake	
Watkins Mill	

Table 7.

Council Staff Recommendation		
5-year Projections		
Change to 4-year Projections		
Utilization Threshold		
105%	120%	135%
Utilization Premium Payment 30% of Impact Tax	Utilization Premium Payment 60% of Impact Tax	Moratorium Countywide
High Schools		
M. Blair	M. Blair	
J. H. Blake		
W. Churchill	W. Churchill	
Clarksburg	Clarksburg	
Albert Einstein	Albert Einstein	
Gaithersburg		
Walter Johnson	Walter Johnson	Walter Johnson
R. Montgomery	R. Montgomery	
Northwest		
Quince Orchard	Quince Orchard	Quince Orchard
Middle Schools		
Argyle	Argyle	
Elementary Schools		
Ashburton		
Bannockburn	Bannockburn	Bannockburn
L. Barnsley		
Bethesda	Bethesda	
Burning Tree		
Diamond	Diamond	
Farmland		
Greencastle	Greencastle	
Highland View	Highland View	Highland View
Mill Creek	Mill Creek	Mill Creek
J. A. Resnik	J. A. Resnik	
R. C. Forest		
Snowden Farm		
South Lake		
Watkins Mill	Watkins Mill	

For context in considering the Utilization Premium Payment rate that should apply at any given threshold, Table 8 shows the proposed (standard) impact tax rates by dwelling type and School Impact Area. Table 9 shows the applicable UPP at 60 percent of the impact tax, Table 10 shows the applicable UPP at 30 percent of the impact tax.

Table 8.

Impact Tax Rates	Single-family		Multifamily	
	Detached	Attached	Low-Rise	High-Rise
Infill Impact Areas	\$19,707	\$17,311	\$6,448	\$3,193
Turnover Impact Areas	\$21,582	\$23,928	\$11,555	\$2,326
Greenfield Impact Areas	\$33,809	\$28,691	\$29,420	Too few records
Current Tax Rate	\$26,207	\$27,598	\$21,961	\$6,113

Table 9.

Utilization Premium Payments (60% of Impact Tax)		Single-family		Multifamily	
		Detached	Attached	Low-Rise	High-Rise
Infill Impact Areas	Elementary	\$4,927	\$4,328	\$1,612	\$798
	Middle	\$2,956	\$2,597	\$967	\$479
	High	\$3,941	\$3,462	\$1,290	\$639
Turnover Impact Areas	Elementary	\$5,396	\$5,982	\$2,889	\$582
	Middle	\$3,237	\$3,589	\$1,733	\$349
	High	\$4,316	\$4,786	\$2,311	\$465
Greenfield Impact Areas	Elementary	\$8,452	\$7,173	\$7,355	tbd
	Middle	\$5,071	\$4,304	\$4,413	tbd
	High	\$6,762	\$5,738	\$5,884	tbd

Table 10.

Utilization Premium Payments (30% of Impact Tax)		Single-family		Multifamily	
		Detached	Attached	Low-Rise	High-Rise
Infill Impact Areas	Elementary	\$2,464	\$2,164	\$806	\$399
	Middle	\$1,478	\$1,299	\$484	\$240
	High	\$1,971	\$1,731	\$645	\$320
Turnover Impact Areas	Elementary	\$2,698	\$2,991	\$1,445	\$291
	Middle	\$1,619	\$1,795	\$867	\$175
	High	\$2,158	\$2,393	\$1,156	\$233
Greenfield Impact Areas	Elementary	\$4,226	\$3,587	\$3,678	tbd
	Middle	\$2,536	\$2,152	\$2,207	tbd
	High	\$3,381	\$2,869	\$2,942	tbd

Two issues remain to be covered in the last PHED Committee worksession. One issue is how the funds raised by the UPP can be used. And the second issue involves the rules governing the process for making a Utilization Premium Payment, when it is made and whether it is evaluated against the Annual School Test in effect at the time of payment.

This packet contains:	<u>Circle #</u>
Utilization tables using 3-year and 5-year Projections	1-2
Excerpt testimony of County Executive	3
Excerpt testimony of Superintendent of MCPS	4
Excerpt testimony of MCCPTA	5
Excerpt testimony of Lerch, Early, and Brewer	6

School Service Areas Under Various Utilization Thresholds¹				
3-year Projections				
105%	120%	125%	135%	150%
High Schools				
M. Blair	M. Blair			
J. H. Blake				
W. Churchill	W. Churchill			
Clarksburg	Clarksburg			
Albert Einstein	Albert Einstein	Albert Einstein		
Gaithersburg				
Walter Johnson	Walter Johnson	Walter Johnson		
R. Montgomery				
Northwest				
Quince Orchard	Quince Orchard	Quince Orchard		
Middle Schools				
Argyle	Argyle			
Elementary Schools				
Arcola				
Ashburton	Ashburton			
Bannockburn	Bannockburn	Bannockburn	Bannockburn	
L. Barnsley				
Bethesda	Bethesda	Bethesda		
Burning Tree	Burning Tree	Burning Tree		
Burtonsville	Burtonsville	Burtonsville		
Diamond	Diamond			
Farmland				
Greencastle	Greencastle			
Highland View	Highland View	Highland View	Highland View	
S. Matsunaga				
Mill Creek	Mill Creek	Mill Creek	Mill Creek	Mill Creek
W. T. Page	W. T. Page	W. T. Page	W. T. Page	W. T. Page
J. A. Resnik	J. A. Resnik			
R. C. Forest				
Snowden Farm				
South Lake	South Lake	South Lake		
Watkins Mill	Watkins Mill			

¹ And applicable seat deficits

School Service Areas in Moratorium Under Various Utilization Thresholds²				
5-year Projections				
105%	120%	125%	135%	150%
High Schools				
J. H. Blake				
W. Churchill				
Clarksburg				
Gaithersburg				
R. Montgomery	R. Montgomery			
Quince Orchard	Quince Orchard	Quince Orchard	Quince Orchard	
Middle Schools				
Argyle	Argyle			
Elementary Schools				
Ashburton				
Bannockburn				
Diamond				
Farmland				
Greencastle				
Highland View	Highland View	Highland View	Highland View	
Mill Creek	Mill Creek	Mill Creek	Mill Creek	Mill Creek
J. A. Resnik	J. A. Resnik			
Watkins Mill				

² And applicable seat deficits



OFFICE OF THE COUNTY EXECUTIVE
Rockville, Maryland 20850

Marc Elrich
County Executive

September 10, 2020

4.16 Require applicants to pay Utilization Premium Payments when a school's projected utilization three years in the future exceeds 120 percent. in Turnover and Infill Impact Area when a school's projected utilization three years in the future established

Table 12. Utilization Premium Payment Calculation Factors.

School Level	Payment Factor
Elementary School	25% of the standard impact tax for the School Impact Area and dwelling type
Middle School	15% of the standard impact tax for the School Impact Area and dwelling type
High School	20% of the standard impact tax for the School Impact Area and dwelling type

The CE supports developers paying their fair share of impact taxes, i.e., an amount that reflects their contribution to increased school enrollment. Impact taxes should be

increased in this SSP so that Utilization Premium Payments are not necessary, and this recommendation rejected. If, however, the Council approves these payments than the payments should be required when overcrowding is greater than 105%, not greater than 120%.

Maryland's Largest School District

MONTGOMERY COUNTY PUBLIC SCHOOLS

Expanding Opportunity and Unleashing Potential

OFFICE OF THE SUPERINTENDENT OF SCHOOLS

September 10, 2020

4. *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.

MCCPTA Comments on 2020-2024 County Growth Policy Recommendations
Submitted to the County Council September 8, 2020

- 4.16: *Require applicants to pay Utilization Premium Payments when a school's projected utilization three years in the future exceeds 120 percent.*

MCCPTA supports this recommendation. In fact, we support the elimination of moratoria if and only if *Staff Draft 4.12* is reinstated and Utilization Premium Payments are implemented. Furthermore, Utilization Premium Payments should be implemented at 105%. There is precedent for this, since School Facility payments were triggered at 105% until 2016. As proposed, the 2020 Growth Policy tolerates school enrollment up to 120% with no ramifications whatsoever. It is not acceptable to allow our schools to reach 120% utilization without intervention. Lastly, Utilization Premium Payments should be calculated based on cost per seat without applying discounts for desirable growth areas.



September 11, 2020

4.16 Require applicants to pay Utilization Premium Payments when a school's projected utilization three years in the future exceeds 120%.

Comments: We support this recommendation insofar as Utilization Premium Payments are a better alternative to moratoria. Utilization Premium Payments should be applied in lieu of potential moratoria in the Greenfield Impact Area as well (*see* Recommendation 4.9). The Planning Board recommendation is that the amount of Utilization Premium Payments, if any, will be determined at time of building permit. Whether Utilization Premium Payments are owed at the time of building permit will depend on whether school capacity exceeds 120% three years in the future at the elementary, middle, or high school levels, and based on the applicable rates of Utilization Premium Payments at that time. We believe this creates financial uncertainty for a project. If a project receives subdivision approval and little or no Utilization Premium Payments are owed at the time of the approval, then the project could be subject to substantial Utilization Premium Payments later at time of building permit. These changed circumstances in school capacity that create the Utilization Premium Payments could be due to school boundary changes, enrollment increases due to turnover of existing housing, or other factors outside of the project's control. Thus, the maximum amount of Utilization Premium Payments the project owes should be established at time of subdivision approval based on applicable Utilization Premium Payments at that time of subdivision approval. At time of building permit, Utilization Premium Payments should be recalculated and that amount, if any, should be paid, up to the maximum amount established at the time of subdivision approval.



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

WILL JAWANDO
COUNCILMEMBER
AT-LARGE

Memorandum

To: GO/PHED Committees- CM Reimer, CM Navarro, CM Katz, CM Friedson
From: Councilmember Jawando
Date: October 4, 2020
Re: Subdivision Staging Policy Amendments

As we work our way through the new SSP, it is essential we remember the problems it is intended to tackle: overcrowded schools and inadequate transportation infrastructure. If you visit our schools or spend a day on our roads it becomes obvious we have problems with both overcrowding and traffic. There are numerous schools perpetually overcrowded at capacities in excess of 120%. We need to do more to support these overcrowded schools and incentivize the kinds of development that will address our missing middle family housing crisis.

We should make some key changes to the SSP to keep our promise to Montgomery County residents. First, the moratorium as it is currently structured only comes into effect after we already have a problem and then frequently focuses attention on funding solutions that overshadow other MCPS priorities. While I agree that moratoria are inefficient, I believe that we need to keep some form of moratorium policy in order to avoid catastrophic overcrowding while limiting its effect on other school needs. In order to do that, I recommend increasing the moratorium threshold to 135% countywide. Additionally, implementing a Utilization Premium Payment in areas with overcrowded schools, as proposed by M-NCPPC, is a step in the right direction but should be implemented below a utilization of 120%. We should start requiring UPP payments of 50% of impact taxes beginning at 105% capacity. Once a school's capacity has reached 120% we should double the UPP payment to 100% of impact taxes. This will bring in additional, sorely needed funds to help address overcrowding issues, see Table 1 attached.

We must also start addressing the lack of two and three bedroom units in our multi family housing. The incentives suggested in the plan are directed towards projects in desired growth areas that do not necessarily address our missing middle family housing needs. According to MWCOG's Round 9.1 Forecast, 76 percent of the County's overall housing growth is expected to occur within our Activity Centers. The need to further incentivize more housing in these locations is unwarranted; however, the fact that between 2010-2016 only 2% of the multifamily units built included 3 bedrooms, and only 35% included 2 bedrooms (the lowest percentages since 1950) demonstrates the real issue we need to solve, and should incentivize - the lack of housing for families. Instead of giving a 40% discount on the school impact tax to developers building in desirable growth areas, we should use the discount to further our commitment to providing more housing options for families by incentivizing increases in the number of two and three bedroom units. Instead, I propose providing an impact

tax credit of 40% for two bedroom apartments and 60% for three bedroom apartments built in Infill School Impact Areas.

I appreciate the work done by the Planning Board, Council staff and all of my colleagues. The current draft of the SSP misses the mark when it comes to targeting incentives to add the kind of family housing we need most. I am hopeful we can implement a tool that will help prevent overcrowding at schools and will give us the means to address facility needs for our children.

Table 1. Utilization Premium Payments

		Utilization 105 - 120%[1]				Utilization 121-135%[2]			
		Single-family		Multifamily		Single-family		Multifamily	
	School Level	Detached	Attached	Low-Rise	High-Rise	Detached	Attached	Low-Rise	High-Rise
Infill Impact Areas	Elementary	\$4,138	\$3,635	\$1,354	\$671	\$8,277	\$7,271	\$2,708	\$1,341
	Middle	\$2,365	\$2,077	\$774	\$383	\$4,730	\$4,155	\$1,548	\$766
	High	\$3,350	\$2,943	\$1,096	\$543	\$6,700	\$5,886	\$2,192	\$1,086
Turnover Impact Areas	Elementary	\$4,532	\$5,025	\$2,427	\$488	\$9,064	\$10,050	\$4,853	\$977
	Middle	\$2,590	\$2,871	\$1,387	\$279	\$5,180	\$5,743	\$2,773	\$558
	High	\$3,669	\$4,068	\$1,964	\$395	\$7,338	\$8,136	\$3,929	\$791
Greenfield Impact Areas	Elementary	\$7,100	\$6,025	\$6,178	--[3]	\$14,200	\$12,050	\$12,356	--
	Middle	\$4,057	\$3,443	\$3,530	--	\$8,114	\$6,886	\$7,061	--
	High	\$5,748	\$4,877	\$5,001	--	\$11,495	\$9,755	\$10,003	--

Based on a percentage of the impact tax rate factored by school level to reflect relative impact of housing units on school enrollment.

- [1] UPP at all 3 school levels equals 50% of the impact tax.
- [2] UPP at all 3 school levels equals 100% of the impact tax
- [3] Insufficient student data to determine rate – alternative proxy TBD