

MEMORANDUM

TO: County Council

FROM:  Michael Faden, Senior Legislative Attorney
Glenn Orlin, Deputy Council Staff Director

SUBJECT: **Introduction:** Resolution to approve comprehensive amendment to County Growth Policy

The attached resolution, scheduled to be introduced on May 24, 2007, by the Council President at the request of the Planning Board, would revise the County Growth Policy, most notably by inserting a new Policy Area Mobility Review (PAMR) transportation test to effectively replace the former Policy Area Transportation Review (PATR) test that was repealed in 2003, and by revising the schools adequacy test.

A public hearing on this and related items, including proposed impact tax and recordation tax rate changes, is tentatively scheduled for June 19 at 7:30 p.m.

This packet contains:	<u>Circle #</u>
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Resolution No: _____
Introduced: _____
Adopted: _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: Council President at the request of the Planning Board

SUBJECT: [2003-5 Annual] 2007-2009 Growth Policy [- Policy Element]

Background

1. County Code §33A-15 requires that no later than November 15 of each odd-numbered year, the County Council must adopt a Growth Policy to be effective until November 15 of the next odd-numbered year, to provide policy guidance to the agencies of government and the general public on matters concerning land use development, growth management and related environmental, economic and social issues.
2. On December 12, 2006, the County Council adopted Resolution 16-17, directing the Planning Board to prepare growth policy recommendations by May 21, 2007.
3. On May 21, 2007, as required by Resolution 16-17 and in accordance with §33A-15, the Planning Board transmitted to the County Council its recommendations on the 2007-2009 Growth Policy. The Final Draft Growth Policy as submitted by the Planning Board contained supporting and explanatory materials.
3. On (date), the County Council held public hearings on the Growth Policy.
4. On (dates), the Council's Planning, Housing, and Economic Development Committee conducted worksessions on the recommended Growth Policy.
5. On (dates), the Council conducted worksessions on the Growth Policy, at which careful consideration was given to the public hearing testimony, updated information, recommended revisions and comments of the County Executive and Planning Board, and the comments and concerns of other interested parties.

Action

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

The [2003-5 AGP] Growth Policy [Element] is approved as follows:

Applicability; transition

AP1 Effective dates

This resolution takes effect on [July 1, 2004] August 1, 2007, and applies to any application for a preliminary plan of subdivision filed on or after that date. [Any preliminary plan of subdivision for which a completed application was filed before July 1, 2004, is subject to all provisions of the previous Annual Growth Policy, as contained in Council Resolution 15-259. All provisions of Resolution 15-259 continue in effect until July 1, 2004.] In accordance with Subdivision Regulation Amendment 06-03, any preliminary plan of subdivision for which a completed application was filed on or after January 1, 2007 is subject to the provisions of this resolution.

[AP2 Previous approvals

If any preliminary plan of subdivision that was approved before July 1, 2004, is either modified or withdrawn and replaced by a new application for a subdivision plan at the same location or part of the same location, the Planning Board when it approves or re-approves a preliminary plan of subdivision after July 1, 2004, must retain any transportation improvement required in the previously approved plan.]

Guidelines for the Administration of the Adequate Public Facilities Ordinance

County Code Section 50-35(k) ("the Adequate Public Facilities Ordinance or APFO") directs the Montgomery County Planning Board to approve preliminary plans of subdivision only after finding that public facilities will be adequate to serve the subdivision. This involves predicting future demand from private development and comparing it to the capacity of existing and programmed public facilities. The following guidelines describe the methods and criteria that the Planning Board and its staff must use in determining the adequacy of public facilities. These guidelines supersede all previous ones adopted [administratively by the Planning Board to the extent that these guidelines conflict with previous ones. They also supersede those provisions of the Adequate Public Facilities Ordinance that were specified to apply only until the County Council had approved an Annual Growth Policy] by the County Council.

The Council accepts the definitions of terms and the assignment of values to key measurement variables that were used by the Planning Board and its staff in

developing the recommended [Annual] Growth Policy. The Council delegates to the Planning Board and its staff all other necessary administrative decisions not covered by the guidelines outlined below. In its administration of the APFO, the Planning Board must consider the recommendations of the County Executive and other agencies in determining the adequacy of public facilities.

The [ceilings] findings and directives described in this [AGP] Growth Policy are based primarily on the public facilities in the amended FY [2003-2008] 2007-12 Capital Improvements Program (CIP) and the Maryland Department of Transportation FY [03-08] 2007-12 Consolidated Transportation Program (CTP). The Council also reviewed related County and State funding decisions, master plan guidance and zoning where relevant, and related legislative actions. These [ceilings] findings and directives and their supporting planning and measurement process have been the subject of a public hearing and review during worksessions by the County Council. Approval of the [ceilings] findings and directives reflects a legislative judgment that, all things considered, these [ceilings] findings and procedures constitute a reasonable, appropriate, and desirable set of growth limits, which properly relate to the ability of the County to program and construct facilities necessary to accommodate growth. These growth limits will substantially advance County land use objectives by providing for coordinated and orderly development.

These guidelines are not intended to be used as a means for government to avoid its responsibility to provide adequate public facilities. Biennial review and oversight allows the Council to identify problems and initiate solutions that will serve to avoid or limit the duration of any moratorium on new subdivision approvals in a specific policy area. Further, alternatives may be available for developers who wish to proceed in advance of the adopted public facilities program, through the provision of additional public facility capacity beyond that contained in the approved Capital Improvements Program, or through other measures [which] that accomplish an equivalent effect.

The administration of the Adequate Public Facilities Ordinance must at all times be consistent with adopted master plans and sector plans. Where development staging guidelines in adopted master plans or sector plans are more restrictive than [AGP] Growth Policy guidelines, the guidelines in the adopted master plan or sector plan must be used to the extent that they are more restrictive.

Guidelines for Transportation Facilities

TP Policy Areas

TP1 Policy Area Boundaries and Definitions

For the purposes of transportation analysis, the County has been divided into 313 areas called traffic zones. Based upon their transportation characteristics, these areas are grouped into transportation policy areas, as shown on Map 1. In many cases, transportation policy areas have the same boundaries as planning areas, sector plan areas, or master plan analysis (or special study) areas. The policy areas in effect for [2004-5] 2007-2009 are: Aspen Hill, Bethesda CBD, Bethesda-Chevy Chase, Clarksburg, Cloverly, Damascus, Derwood, Fairland/White Oak, Friendship Heights, Gaithersburg City, Germantown East, Germantown Town Center, Germantown West, Glenmont, Grosvenor, Kensington/Wheaton, Montgomery Village/Airpark, North Bethesda, North Potomac, Olney, Potomac, R&D Village, Rockville City, Rockville Town Center, Shady Grove, Silver Spring CBD, Silver Spring/Takoma Park, Twinbrook, Wheaton CBD, and White Flint. The following are Metro Station Policy Areas: Bethesda CBD, Friendship Heights, Glenmont, Grosvenor, Rockville Town Center, Shady Grove, Silver Spring CBD, Twinbrook, Wheaton CBD, and White Flint. [Detailed boundaries of the policy areas are shown on Maps 2-31.]

The boundaries of the Gaithersburg City and Rockville City policy areas reflect existing municipal boundaries, except where County-regulated land is surrounded by city-regulated land. The boundaries of these municipal policy areas do not automatically reflect any change in municipal boundaries; any change in a policy area boundary requires affirmative Council action.

TP1.1 Components of Policy Area Mobility Review

There are two components to Policy Area Mobility Review: *Relative Arterial Mobility* and *Relative Transit Mobility* for each policy area.

TP1.1.1 Relative Arterial Mobility

Relative Arterial Mobility is a measure of congestion on the County's arterial roadway network. It is based on the *urban street delay level of service* in the 2000 Highway Capacity Manual, published by the Transportation Research Board. This

concept measures congestion by comparing modeled (congested) speeds to free-flow speeds on arterial roadways. It then assigns letter grades to the various levels of roadway congestion, with letter A assigned to the best levels of service and letter F assigned to the worst levels of service. For a trip along an urban street that has a free-flow speed (generally akin to posted speed) of 40 MPH, LOS A conditions exist when the actual travel speed is at least 34 MPH, including delays experienced at traffic signals. At the other end of the spectrum, LOS F conditions exist when the actual travel speed is below 10 MPH.

Relative Arterial Mobility and Arterial LOS

<u>If the actual urban street travel speed is</u>	<u>PAMR Arterial LOS is</u>
<u>At least 85% of the free-flow speed</u>	<u>A</u>
<u>At least 70% of the highway speed</u>	<u>B</u>
<u>At least 55% of the highway speed</u>	<u>C</u>
<u>At least 40% of the highway speed</u>	<u>D</u>
<u>At least 25% of the highway speed</u>	<u>E</u>
<u>Less than 25% of the highway speed</u>	<u>F</u>

Any policy area with an actual urban street travel speed equal to or less than 10 percent of the highway speed must be considered inadequate for transportation.

The PAMR evaluates conditions only on the arterial roadway network. Freeway level of service is not directly measured because County development contributes a relatively modest proportion of freeway travel, and because the County has limited influence over the design and operations of the freeway system. However, because arterial travel is a substitute for some freeway travel, PAMR indirectly measures freeway congestion to the extent that travelers choose local roadways over congested freeways.

TP1.1.2 Relative Transit Mobility

Relative transit mobility is based on the Transit/Auto Travel Time level of service concept in the 1999 Transit Capacity and Quality of Service Manual published by the Transportation Research Board. It is defined as the relative speed by which journey to work trips can be made by transit, as opposed to by auto. This concept assigns letter grades to various levels of transit service, so that LOS A conditions exist for transit when a trip can be made more quickly by transit (including walk-access/drive-access and wait times) than by single-occupant auto. This LOS A condition exists in the Washington region for certain rail transit trips with short

walk times at both ends of the trip and some bus trips in HOV corridors. LOS F conditions exist when a trip takes more than an hour longer to make via transit than via single-occupant auto.

This ratio between auto and transit travel times can also be expressed in an inverse relationship, defined by modal speed. If a trip can be made in less time via transit than via auto, the effective transit speed is greater than the effective auto speed. Based on the typical roadway network speed during the AM peak period, the Planning Board established the following relationship between auto and transit trips:

Relative Transit Mobility and Transit LOS

<u><i>If the effective transit speed is</i></u>	<u><i>PAMR Transit LOS is</i></u>
<u>100% or more (e.g., faster) than the highway speed</u>	<u>A</u>
<u>At least 75% of the highway speed</u>	<u>B</u>
<u>At least 60% of the highway speed</u>	<u>C</u>
<u>At least 50% of the highway speed</u>	<u>D</u>
<u>At least 42.5% of the highway speed</u>	<u>E</u>
<u>Less than 42.5% of the highway speed</u>	<u>F</u>

Any policy area with an effective transit speed equal to or less than 35 percent of the highway speed must be considered inadequate for transportation.

TP1.1.3 Relationship Between Relative Arterial Mobility and Relative Transit Mobility

The PAMR Arterial LOS and the PAMR Transit LOS standards are inversely related, reflecting the County's long-standing policy to encourage concentrations of development near high quality transit. To accomplish this policy, greater levels of roadway congestion must be tolerated in areas where high-quality transit options are available. The PAMR uses the following equivalency:

Equivalency Between Transit LOS and Arterial LOS

<i><u>If the forecasted PAMR Transit LOS is</u></i>	<i><u>The minimum acceptable PAMR Arterial LOS standard is</u></i>
<u>A</u>	<u>E</u>
<u>B</u>	<u>E</u>
<u>C</u>	<u>D</u>
<u>D</u>	<u>C</u>
<u>E</u>	<u>B</u>
<u>F</u>	<u>A</u>

This chart reflects a policy decision that the PAMR Arterial LOS standard should not fall below LOS F, even when the PAMR Transit LOS standard is A.

TP1.2 Conducting Policy Area Mobility Review

TP1.2.1 Geographic Areas

In conducting Policy Area Mobility Reviews, each Metro station policy area is included in its larger parent policy area, so that:

- the Bethesda CBD, Friendship Heights, and Bethesda-Chevy Chase policy areas are treated as a single policy area;
- the Grosvenor, White Flint, Twinbrook and North Bethesda policy areas are treated as a single policy area;
- the Rockville Town Center and Rockville policy areas are treated as a single policy area;
- the Shady Grove and Derwood policy areas are treated as a single policy area;
- the Silver Spring CBD and Silver Spring-Takoma Park policy areas are treated as a single policy area; and
- the Wheaton CBD, Glenmont, and Kensington-Wheaton policy areas are treated as a single policy area.

TP1.2.2 Determination of Adequacy

Using a transportation planning model, the Planning staff has computed the relationship between a programmed set of transportation facilities and the geographic pattern of existing and approved jobs and housing units. The traffic model tests this future land use pattern for its traffic impact, comparing the

resulting traffic volume and distribution to the arterial level of service standard for each policy area.

This analysis results in a finding of inadequacy for a policy area if:

- (a) the level of service on local roads in the policy area is expected to exceed the arterial level of service standard, or
- (b) the magnitude of the hypothetical future land use patterns in that policy area will cause the level of service on local roads in any other policy area to exceed the arterial level of service standard for that policy area.

If this annual analysis results in a finding of inadequacy for a policy area for a fiscal year, the Planning Board must not approve any more subdivisions in that policy area in that fiscal year except as provided below. For FY2008, the Planning Board must consider the Germantown East and Gaithersburg City Policy Areas to be inadequate for transportation.

The Planning Board may adopt Policy Area Mobility Review guidelines and other technical materials to further specify standards and procedures for its adoption of findings of policy area adequacy or inadequacy.

The transportation planning model considers all existing and approved development and all eligible programmed transportation CIP projects. For these purposes, "approved development" includes all approved preliminary plans of subdivision and is also known as the "pipeline of approved development." "Eligible programmed transportation CIP projects" include all County CIP, State Transportation Program projects, and City of Rockville or Gaithersburg projects for which 100 percent of the expenditures for construction are estimated to occur in the first 6 years of the applicable program.

To discourage sprawl development, no capacity for new development may be counted outside the boundary of the Town of Brookeville as of March 9, 1999, as a result of relocating MD 97 around Brookeville.

Planning staff must keep a record of all previously approved preliminary plans and other data about the status of development projects, and must continuously update the pipeline number of approved preliminary plans. The updated pipeline must be the basis for the annual PAMR.

IP2 Transportation Pipeline

Planning staff must keep a record of all previously approved preliminary plans and other data about the status of development projects, and continuously update the pipeline number of approved preliminary plans, thus constantly keeping in view, and presenting to the Planning Board, the amount of capacity still available at any given time. The continuous updating must include all changes to the amount of development approved under outstanding preliminary plans, with the exception of those which result from the discovery of accounting errors. Such errors must be reported to the Council each year in May, and must be reported on a quarterly basis, or more frequently, to the Planning Board who may bring them to the attention of the Council if the Board judges them to be significant. The Planning Board should maintain a periodically updated queue list of applicants for preliminary plan of subdivision approval.]

Under County Code §50-20(c), the Planning Board must set the period of validity for a finding of public facilities adequacy on a case-by-case basis for each subdivision, although the validity period for any subdivision must not be less than 5 years nor more than [12] 10 years, not including any extension allowed under §50-20. [In general, the Planning Board must set the validity period of a subdivision at 5 years unless:

- (a) for non-residential development, the subdivision is larger than 150,000 square feet and consists of more than one building; or
- (b) for residential development, the subdivision consists of more than 200 housing units.]

TP3 Mitigation for Applications in Policy Areas with Inadequate PAMR

The Planning Board, after considering any recommendation of the County Executive, may approve a preliminary plan application in a policy area found by Policy Area Mobility Review to be inadequate, as provided in this section. In approving plans in inadequate policy areas, the Board should assure that the average level of service for the relevant policy area is not adversely affected. Except as otherwise expressly stated in TP4, the same level of service criteria must be used in evaluating an application under this section.

The following options to mitigate the traffic impacts of development approved in a preliminary plan may be used, individually or in combination:

- Trip Mitigation. An applicant may sign a binding Trip Mitigation Agreement under which up to 100% of the projected peak hour vehicle trips would be removed from the roadway by using Transportation Demand Management techniques to reduce trips generated by the applicant's development or by

other sites, so that an applicant could still generate a certain number of trips if the mitigation program removes an equal number of trips from other sites in the same policy area.

- Trip Reduction by Providing Non-Auto Amenities. An applicant may mitigate roadway congestion impacts to a limited extent by providing non-auto transportation amenities that will enhance pedestrian safety or increase the attractiveness of alternative modes of travel. The allowable amenities and their corresponding vehicle trip credits are shown in table 2. These amenities include sidewalks, bike paths, curb extensions, countdown pedestrian signals, bus shelters and benches, bike lockers, and static or real time transit information signs. These amenities can be provided in exchange for vehicle trip “credits”; both the credit value and maximum potential trip reduction credit (from 60 to 120 peak hour vehicle trips) will depend on the congestion standard for the policy area.
- Adding Roadway Capacity. An applicant may mitigate trips by building link-based roadway network capacity. The conversion rate between vehicle trips and lane miles of roadway is shown in Table 3. The values in that table are derived from regional estimates of vehicle trip length by trip purposes and uniform per-lane capacities for roadway functional classes that should be applied countywide. Several conditions apply:
 - The number of lane miles in Table 3 reflects total capacity provided, so that if an applicant widens a roadway by one lane in each direction, the total minimum project length would be half the length listed in the table.
 - The roadway construction or widening must have logical termini, for instance, connecting two intersections.
 - The roadway construction must occur in the same Policy Area as the proposed development.
 - The roadway construction must be recommended in a master plan.
- Adding Transit Capacity. An applicant may mitigate inadequate PAMR conditions by buying 40-foot long hybrid electric fleet vehicles for the Ride-On system, and guaranteeing 12 years of operations funding, at the rate of 30 peak hour vehicle-trips per fleet vehicle.
- Payment instead of construction. The Planning Board may accept payment of a fee instead of facility implementation if the applicant shows a good faith effort to implement a facility and the Board finds that a desirable improvement cannot feasibly be implemented by the private sector but the same improvement or an equivalent alternative can be implemented by a public agency at a later time.

In general, each mitigation measure or combination of measures must be scheduled for completion or otherwise operational at the same time or before the proposed development is scheduled to be completed. The nature, design, and scale of any additional facility or program must receive prior approval from any government agency that would construct or maintain the facility or program, and the applicant and the public agency must execute an appropriate public works agreement before the Board approves a record plat. The application must also be approved under Local Area Transportation Review.

Both the subdivision plan and all necessary mitigation measures must be consistent with an adopted master plan or other relevant land use policy statement. For the Planning Board to accept a roadway capacity improvement as a mitigation measure, the applicant must show that alternative non-auto mitigation measures are not feasible or desirable. In evaluating mitigation measures proposed by an applicant, the Board must place a high priority on design excellence to create a safe, comfortable, and attractive public realm for all users, with particular focus on high-quality pedestrian and transit access to schools, libraries, recreation centers, and other neighborhood facilities.

TP3 Unique Policy Area Issues

Because of the unique nature of the Georgetown Branch Trolley Project and the North Bethesda Transitway in comparison with other transportation systems which are normally used in calculating development capacity, it is prudent to approach the additional capacity from these systems in a conservative way, particularly with respect to the timing of capacity and the amount of the capacity recognized. Therefore, the capacity from the Georgetown Branch Trolley Project must not be counted until the actual system is constructed and operated, or at least until there is reasonable certainty as to its exact date of operation and amount of actual ridership. The initial capacity from the North Bethesda Transitway must not be counted until the project is fully funded in the first 5 years of either the County or State capital improvements program, and until the County Council has approved projected ridership.

To discourage sprawl development, no capacity for new development may be counted beyond the boundary of the Town of Brookeville existing on March 9, 1999, as a result of relocating MD 97 around Brookeville.

The Local Area Review for the Silver Spring CBD policy area must use the following assumptions and guidelines:

- All traffic limitations are derived from the heaviest traffic demand period, in Silver Spring's case, the p.m. peak hour outbound traffic.
- When tested during a comprehensive circulation analysis, the critical lane volumes for intersections in the surrounding Silver Spring/Takoma Park policy area must not be worse than the adopted level of service standards shown in Table 1 unless the Planning Board finds that the impact of improving the intersection is more burdensome than the increased congestion.
- The Planning Board and the Department of Public Works and Transportation must implement Transportation Systems Management for the Silver Spring CBD. The goal of this program must be to achieve the commuting goals for transit use and auto occupancy rates set out below.
- The County Government, through the Silver Spring Parking Lot District, must constrain the amount of public and private long term parking spaces.

The parking constraints and commuting goals needed to achieve satisfactory traffic conditions with these staging ceilings are as follows:

Parking constraint: A maximum of 17,500 public and private long-term spaces when all nonresidential development is built, (this maximum assumes a peak accumulation factor of 0.9, which requires verification in Silver Spring and may be subject to revision). Interim long-term parking constraints must be imposed in accordance with the amount of interim development. Long-term public parking spaces must be priced to reflect the market value of constrained parking spaces.

Commuting goals: For employers with 25 or more employees, attain 25 percent mass transit use and auto occupancy rates of 1.3 persons per vehicle during the peak periods, or attain any combination of employee mode choice that results in at least 46% non-drivers during the peak periods. For new nonresidential development, attain 30 percent mass transit use and auto occupancy rates of 1.3 persons per vehicle during the peak periods, or attain any combination of employee mode choice that results in at least 50% non-drivers during the peak periods.

Progress towards achieving these goals should be measured annually by using scientific and statistically valid survey techniques.

To achieve these goals it will be necessary to require developers of new development in Silver Spring to enter into traffic mitigation agreements and the employers and certain owners to submit transportation mitigation plans under Chapter 42A of the County Code.

Each Annual Growth Policy must reflect the Annual Report of the Silver Spring Transportation Management District, which must include a report of the status of critical signalized intersections (as defined in the report of October 5, 1987). The Annual Growth Policy must include a projection of future traffic conditions based on intersection improvements in the proposed CIP and full achievement of the Transportation Management District goals. The Council will take this information into account in the decisions on the Growth Policy and the CIP.

In accordance with the amendment to the Silver Spring Sector Plan, subdivision applications for nonresidential standard method projects throughout the CBD may be approved for development or additions of not more than 5,000 square feet of gross floor area. However, if, for a particular use the addition of five peak hour trips yields a floor area greater than 5,000 square feet, that additional area may be approved for that particular use.

In the North Bethesda Transportation Management District, the goal is 39 percent non-driver mode share for residents of multifamily housing in the peak hour. In the Bethesda Transportation Management District, the goal is 37 percent non-driver mode share for workers and residents of multifamily housing. In the Friendship Heights Transportation Management District, the goal is 39 percent non-driver mode share for workers.]

TP4 Development District Participation

Under Chapter 14 of the County Code, the County Council may create development districts [may be created by the County Council] as a funding mechanism for needed infrastructure in areas of the County where substantial development is expected or encouraged. The Planning Board may approve subdivision plans in accordance with the terms of the development district's provisional adequate public facilities approval (PAPF).

TP4.1 Preparation of a PAPF

The development district's PAPF must be prepared in the following manner:

One or more property owners in the proposed district may submit to the Planning Board an application for provisional adequate public facilities approval for the entire district. In addition to explaining how each development located in the district will comply with all applicable zoning and subdivision requirements, this application must:

- show the number and type of housing units and square footage and type of the non-residential space to be developed, as well as a schedule of proposed buildout in five-year increments;
- identify any infrastructure improvements necessary to satisfy the adequate public facilities requirements for development districts; and
- estimate the cost to provide these improvements.

TP4.2 Planning Board Review

The Planning Board must then review all developments within the proposed development district as if they are a single development for compliance with the Adequate Public Facilities Ordinance. The Planning Board must identify the public facilities needed to support the buildout of the development district after considering the results of the following tests for facility adequacy:

- Transportation tests for development districts are identical to those for Local Area Transportation Review. Planning Department staff must prepare a list of transportation infrastructure needed to maintain public facility adequacy.
- The PAPF application must be referred to Montgomery County Public Schools staff for recommendations for each stage of development in the proposed district. MCPS staff must calculate the extent to which the development district will add to MCPS's current enrollment projections. MCPS staff must apply the existing school adequacy test to the projections with the additional enrollment and prepare a list of public school infrastructure needed to maintain public facility adequacy.
- The PAPF application must be referred to the Washington Suburban Sanitary Commission for recommendations for each stage of development in the proposed district. Wastewater conveyance and water transmission

facilities must be considered adequate if existing or programmed (fully-funded within the first five years of the approved WSSC capital improvements program) facilities can accommodate (as defined by WSSC) all existing authorizations plus the growth in the development district. Adequacy of water and wastewater treatment facilities must be evaluated using the intermediate or "most probable" forecasts of future growth plus development district growth, but only to the extent that development district growth exceeds the forecast for any time period. If a test is not met, WSSC must prepare a list of water and sewer system infrastructure needed to maintain public facility adequacy.

- The PAPF application must be referred to the County Executive for recommendations for each stage of development in the proposed district regarding police, fire, and health facilities. Adequacy of police, fire, and health facilities must be evaluated using the intermediate or most probable forecasts of future growth plus development district growth, but only to the extent that development district growth exceeds the forecast for any time period. Any facility capacity that remains is available to be used by the development district. If any facility capacity deficits exist, the County Executive must prepare a list of infrastructure needed to maintain public facility adequacy.

TP4.3 Planning Board Approval

The Board may conditionally approve the PAPF application if it will meet all of the requirements of the APFO and AGP. The Board may condition its approval on, among other things, the creation and funding of the district and the building of no more than the maximum number of housing units and the maximum nonresidential space listed in the petition.

For an application to be approved, the applicants must commit to produce the infrastructure improvements needed to meet APF requirements in the proposed district as well as any added requirements specified by the Planning Board. The Planning Board must list these required infrastructure improvements in its approval. The infrastructure improvements may be funded through the development district or otherwise. The development district's PAPF must be prepared in the following manner:

The Planning Board must not approve a PAPF application unless public facilities adequacy is maintained throughout the life of the plan. The timing of

infrastructure delivery may be accomplished by withholding the release of building permits until needed public facilities are available to be "counted," or by another similar mechanism.

Infrastructure may be counted for public facilities adequacy, for infrastructure provided by the district, when construction has begun on the facility and funds have been identified and committed to its completion, and, for infrastructure provided by the public sector, when:

- for Local Area Transportation Review, the project is fully-funded within the first 4 years of the approved County, state, or municipal capital improvements program;
- for water and sewer facilities, the project is fully-funded within the first 5 years of the approved WSSC capital improvements program;
- for public school facilities, the project is fully-funded within the first 5 years of the approved Montgomery County Public Schools capital improvements program; and
- for police, fire, and health facilities, the project is fully-funded within the first 6 years of the relevant approved capital improvements program.

TP4.4 Additional Facilities Recommended for Funding

The County Executive and Planning Board may also recommend to the County Council additional facilities to be provided by the development district or by the public sector to support development within the district. These facilities may include, but are not limited to libraries, health centers, local parks, social services, greenways, and major recreation facilities.

TP4.5 Satisfaction of APF Requirements

As provided in Chapter 14 of the County Code, once the development district is created and the financing of all required infrastructure is arranged, the development in the district is considered to have satisfied all APF requirements, any additional requirements that apply to development districts in the [AGP] Growth Policy, and any other requirement to provide infrastructure which the County adopts within 12 years after the district is created.

TL Local Area Transportation Review (LATR)

TL1 Standards and Procedures

To achieve an approximately equivalent transportation level of service in all areas of the County, greater congestion is permitted in policy areas with greater transit accessibility and usage. Table 1 shows the intersection level of service standards by policy area. Local Area Transportation Review must at all times be consistent with the standards and staging mechanisms of adopted master [plans] and sector plans.

Local area transportation review must be completed for any subdivision that would generate 30 or more peak-hour automobile trips. For any subdivision that would generate 30-49 peak-hour automobile trips, the Planning Board after receiving a traffic study must require that either:

- all LATR requirements are met; or
- the applicant must make an additional payment equal to 50% of the applicable transportation impact tax before it receives any building permit in the subdivision.

In administering [the] Local Area Transportation Review [(LATR)], the Planning Board must not approve a subdivision if it finds that an unacceptable peak hour level of service will result after [taking into account] considering existing roads, programmed roads, available or programmed mass transportation, and improvements to be provided by the applicant. If the subdivision will affect an intersection or roadway link for which congestion is already unacceptable, then the subdivision may only be approved if it does not make the situation worse.

The nature of the LATR test is such that a traffic study is necessary if local congestion is likely to occur. The Planning Board and staff must examine the applicant's traffic study to determine whether adjustments are necessary to assure that the traffic study is a reasonable and appropriate reflection of the traffic impact of the proposed subdivision after [taking into account] considering all approved development and programmed transportation projects.

If use and occupancy permits for at least 75% of the originally approved development were issued more than 12 years before the LATR study scope request, the number of signalized intersections in the study must be based on the increased number of peak hour trips rather than the total number of peak hour trips. In these cases, LATR is not required for any expansion that generates 5 or fewer additional peak hour trips.

For Local Area Transportation Review purposes, the programmed transportation projects to be considered are those fully funded for construction in the first 4 years of the current approved Capital Improvements Program, the state's Consolidated Transportation Program, or any municipal capital improvements program. For these purposes, any road required under Section 302 of the County Charter to be authorized by law is not programmed until the time for petition to referendum has expired without a valid petition[,] or the authorizing law has been approved by referendum.

If an applicant is participating in a traffic mitigation program or one or more intersection improvements to meet Local Area Transportation Review requirements, that applicant must be considered to have met Local Area Transportation Review for any other intersection where the volume of trips generated is less than 5 Critical Lane Movements.

Any traffic study required for Local Area Transportation Review must be submitted by a registered Professional Engineer, certified Professional Traffic Operations Engineer, or certified Professional Transportation Planner.

Each traffic study must examine, at a minimum, the number of signalized intersections in the following table, unless the Planning Board affirmatively finds that special circumstances warrant a more limited study.

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

At the Planning Board's discretion, each traffic mitigation program must be required to operate for at least 12 years but no longer than 15 years. The Planning Board may select either trip reduction measures or road improvements (or a combination of both) as the required means of traffic mitigation.

The Planning Board has adopted guidelines to administer Local Area Transportation Review. To the extent that they are consistent with this Policy, the Planning Board guidelines may continue to apply or may be amended as the Planning Board finds necessary.

After consulting the Council, the Planning Board may adopt administrative guidelines that allow use of a "delay" or queuing analysis, different critical lane volume standards, or other methodologies, to determine the level of congestion in appropriate geographic locations such as in urbanized areas, around Metrorail stations, or in specific confined areas planned for concentrated development related to other forms of transit.

In administering Local Area Transportation Review, the Planning Board must carefully consider the recommendations of the County Executive concerning the applicant's traffic study and proposed improvements or any other aspect of the review.

To achieve safe and convenient pedestrian travel, the Planning Board may adopt administrative guidelines requiring construction of off-site sidewalk improvements consistent with County Code §50-25. To maintain an approximately equivalent transportation level of service at the local level considering both auto and non-auto modes of travel, the Planning Board may permit a reduction in the amount of roadway construction or traffic mitigation needed to satisfy the conditions of Local Area Transportation Review in exchange for the construction of non-automobile transportation amenities, such as sidewalks or bus shelters.

In general, any mitigation measure or combination of mitigation measures must be scheduled for completion or otherwise operational at the same time or before the proposed development is scheduled to be completed. The nature, design, and scale of any additional facility or program must receive prior approval from any government agency that would construct or maintain the facility or program, and the applicant and the public agency must execute an appropriate public works agreement before the Planning Board approves a record plat.

Both the subdivision plan and the necessary mitigation measures must be consistent with an adopted master plan or other relevant land use policy statement. For the Planning Board to accept an intersection improvement as a mitigation measure, the applicant must show that alternative non-auto mitigation measures are not feasible or desirable. In evaluating mitigation measures proposed by an applicant, the Board must place a high priority on design excellence to create a safe, comfortable, and attractive public realm for all users, with particular focus on high-quality pedestrian and transit access to schools, libraries, recreation centers, and other neighborhood facilities.

TL2 Metro Station Policy Area LATR Standards

In each Metro Station Policy Area, the Planning Board, in consultation with the Department of Public Works and Transportation, must prepare performance evaluation criteria for its Local Area Transportation Review. These criteria must be used to accomplish: (a) safety for pedestrians and vehicles; (b) access to buildings and sites; and (c) traffic flow within the vicinity, at levels which are tolerable in an urban situation. The County Executive also must publish a Silver Spring Traffic Management Program after receiving public comment and a recommendation from the Planning Board. This program must list those actions to be taken by government to maintain traffic flow at tolerable levels in the Silver Spring CBD and protect the surrounding residential area.

TL3 Potomac LATR Standards

In the Potomac Policy Area, only the areas contributing traffic to the following intersections must be subject to Local Area Transportation Review: (a) Montrose Road at Seven Locks Road; (b) Democracy Boulevard at Seven Locks Road; (c) Tuckerman Lane at Seven Locks Road; (d) Democracy Boulevard at Westlake Drive; (e) Westlake Drive at Westlake Terrace; (f) Westlake Drive at Tuckerman Lane; (g) Bradley Boulevard at Seven Locks Road; (h) River Road at Bradley Boulevard; (i) River Road at Piney Meetinghouse Road; and (j) River Road at Seven Locks Road.

TL4 Unique Policy Area Issues

The Local Area Review for the Silver Spring CBD policy area must use the following assumptions and guidelines:

- Each traffic limit is derived from the heaviest traffic demand period in Silver Spring's case, the p.m. peak hour outbound traffic.
- When tested during a comprehensive circulation analysis, the critical lane volumes for intersections in the surrounding Silver Spring/Takoma Park policy area must not be worse than the adopted level of service standards shown in Table 1 unless the Planning Board finds that the impact of improving the intersection is more burdensome than the increased congestion.

- The Planning Board and the Department of Public Works and Transportation must implement Transportation Systems Management for the Silver Spring CBD. The goal of this program must be to achieve the commuting goals for transit use and auto occupancy rates set out below.
- The County Government, through the Silver Spring Parking Lot District, must constrain the amount of public and private long term parking spaces.

The parking constraints and commuting goals needed to achieve satisfactory traffic conditions with these staging ceilings are:

Parking constraint: A maximum of 17,500 public and private long-term spaces when all nonresidential development is built; this maximum assumes a peak accumulation factor of 0.9, which requires verification in Silver Spring and may be subject to revision. Interim long-term parking constraints must be imposed in accordance with the amount of interim development. Long-term public parking spaces must be priced to reflect the market value of constrained parking spaces.

Commuting goals: For employers with 25 or more employees, attain 25 percent mass transit use and auto occupancy rates of 1.3 persons per vehicle during the peak periods, or attain any combination of employee mode choice that results in at least 46% non-drivers during the peak periods. For new nonresidential development, attain 30 percent mass transit use and auto occupancy rates of 1.3 persons per vehicle during the peak periods, or attain any combination of employee mode choice that results in at least 50% non-drivers during the peak periods.

Progress towards achieving these goals should be measured annually by scientific, statistically valid surveys.

To achieve these goals it will be necessary to require developers of new development in Silver Spring to enter into traffic mitigation agreements and the employers and certain owners to submit transportation mitigation plans under County Code Chapter 42A.

In accordance with the amendment to the Silver Spring Sector Plan, subdivision applications for nonresidential standard method projects throughout the CBD may be approved for development or additions of not more than 5,000 square feet of gross floor area. However, if, for a particular use the addition of 5 peak hour trips

yields a floor area greater than 5,000 square feet, that additional area may be approved for that particular use.

In the North Bethesda Transportation Management District, the goal is 39 percent non-driver mode share for residents of multifamily housing in the peak hour. In the Bethesda Transportation Management District, the goal is 37 percent non-driver mode share for workers and residents of multifamily housing. In the Friendship Heights Transportation Management District, the goal is 39 percent non-driver mode share for workers.

TA Alternative Review Procedures

TA1 Metro Station Policy Areas

An applicant for a subdivision which will be built completely within a Metro station policy area need not [submit any application or] take any action under **TL Local Area Transportation Review** if the applicant agrees in a contract with the Planning Board and the County Department of Public Works and Transportation to:

- submit an application containing all information, including a traffic study, that would normally be required for Local Area Transportation Review;
- meet trip reduction goals set by the Planning Board as a condition of approving that subdivision, which must require the applicant to reduce at least 50% of the number of trips attributable to the subdivision, either by reducing trips from the subdivision itself or from other occupants of that policy area;
- participate in programs operated by, and take actions specified by, a transportation management organization (TMO) to be established by County law for that policy area (or a group of policy areas including that policy area) [in order] to meet the mode share goals established under the preceding paragraph;
- pay an ongoing annual contribution or tax to fund the TMO's operating expenses, including minor capital items such as busses, as established by County law; and
- pay double the applicable development impact tax without claiming any credits for transportation improvements.

TA2 Expiration of Approvals Under Previous Alternative Review Procedures

Annual Growth Policy resolutions in effect between 1995 and 2001 contained Alternative Review Procedures that required any development approved under those procedures to receive each building permit no later than 4 years after the Planning Board approved the preliminary plan of subdivision for that development. Any outstanding development project approved under an Alternative Review Procedure is subject to the expiration dates in effect when that development project was approved, with the following 2 exceptions.

TA2.1 Certain multi-phased projects

A multi-phased project located in the R&D or Life Sciences Center zone may receive some of its building permits later than 4 years after its preliminary plan of subdivision is approved if:

- when the Planning Board approves or amends a site plan for the development, it also approves a phasing schedule that allows an extended validity period, but not longer than 12 years after the preliminary plan of subdivision was approved; and
- the applicant receives the first building permit for a building in the development no later than 4 years after the Planning Board approves the preliminary plan of subdivision for the development.

TA2.2 Certain developments in I-3 zone

Similarly, if the development is located in the I-3 zone, and a previously approved subdivision plan and site plan contains more than 900,000 square feet of office space and at least 40% of that space has been constructed by November 1, 2001, the Planning Board may approve an amendment to its site plan which allows an extended validity period, but not longer than 12 years after the preliminary plan of subdivision was approved.

TA3 Golf Course Community

An applicant for a planned unit development in the Fairland-White Oak policy area that includes a golf course or other major amenity which is developed on a public/private partnership basis need not take any action under **TL Local Area Transportation Review** if the applicant pays to the County a Development Approval Payment, established by County law, before the building permit is issued. However, the applicant must include in its application for preliminary plan approval all information that would have been necessary if the requirements for Local Area Transportation Review applied.

The Planning Board may approve the application if:

- not more than 100 units, in addition to Moderately Priced Dwelling Units (MPDUs), are built in the first fiscal year after construction of the development begins, and
- not more than 100 units, in addition to MPDUs and the unbuilt remaining portion of all prior years' approved units, are built in any later fiscal year.

TA3.1 MPDU Requirements

Any applicant for a subdivision under **TA3** must agree, as part of the application, that it will build the same number of MPDUs among the first 100 units that it would be required to construct at that location if the subdivision consisted of only 100 units, or a pro rata lower number of MPDUs if the subdivision will include fewer than 100 units.

TA3.2 Requirement to Begin Construction

Any applicant for a subdivision approval under **TA3** must agree, as part of the application, that it will not begin to construct any residential unit approved in the application later than 3 years after the plat is recorded or the site plan is approved (whichever occurs later).

TA4 Corporate Headquarters Facility

TA4.1 LATR

An applicant for a preliminary plan of subdivision need not take any action under Local Area Transportation Review if the applicant meets the following conditions:

TA4.1.1 Jobs/Location

The applicant must have employed an average of at least 500 employees in the County for the 2 years before the application was filed, and the applicant must seek to build or expand a corporate headquarters located in the North Bethesda Policy Area.

TA4.1.2 Size/Use

Any new or expanded building approved under this Procedure must not exceed 900,000 square feet, and must be intended primarily for use by the applicant and the applicant's affiliates or business partners.

TA4.1.3 Traffic Information

Each application must include all information that would be necessary if the requirements for Local Area Transportation Review applied.

TA4.1.4 Mode Share Goals

Each applicant must commit to make its best efforts to meet mode share goals set by the Planning Board as a condition of approving the subdivision.

TA4.1.5 TMO Participation

Each applicant must participate in programs operated by, and take actions specified by, the transportation management organization (TMO), if any, established by County law for that policy area to meet the mode share goals set by the Planning Board.

TA4.1.6 TMO Payment

If an applicant is located in a transportation management district, the applicant must pay an annual contribution or tax, set by County law, to fund the TMO's operating expenses, including minor capital items such as busses.

TA4.1.7 Development Approval Payment Limits

The applicant must pay the applicable Development Approval Payment (DAP) as provided in County Code §8-37 through 8-42, but not more than the DAP in effect on July 1, 2001.

TA4.1.8 Eligibility

An applicant may use this Procedure only if it met the criteria in TA4.1.1 for number of employees and site location on November 1, 2003.

TA5 Strategic Economic Development Projects

An applicant for a preliminary plan of subdivision need not take any action under **TL Local Area Transportation Review** if all of the following conditions are met.

TA5.1 Traffic information

The applicant files a complete application for a preliminary plan of subdivision which includes all information that would be necessary if the requirements for LATR applied.

TA5.2 Designation

The County Council has approved the County Executive's designation of the development as a strategic economic development project under procedures adopted by law or Council resolution.

TA5.3 Transportation Impact Tax Payments

The applicant must pay double the applicable transportation impact tax without claiming any credits for transportation improvements.

Public School Facilities

S1 Geographic Areas

For the purposes of public school analysis and local area review of school facilities at time of subdivision, the County has been divided into 24 areas called high school clusters, as shown in Map [32] 2. These areas coincide with the cluster boundaries used by the Montgomery County Public School system.

The groupings used are only to administer the Adequate Public Facilities Ordinance and do not in any way require action by the Board of Education in exercising its power to designate school service boundaries.

S2 School Capacity Measures

The Planning Board must evaluate available capacity in each high school cluster and compare enrollment projected by Montgomery County Public Schools for each fiscal year with projected school capacity in 5 years. If sufficient high school

capacity will not be available in any cluster, the Planning Board must determine whether an adjacent cluster will have sufficient high school capacity to cover the projected deficit.

The Planning Board must use 100% of Council-funded capacity at the high school level and 105% of Council-funded capacity at the middle and elementary school level as its measures of adequate school capacity. This capacity measure does not count relocatable classrooms in computing a school's permanent capacity.

Council-funded regular program classroom capacity is based on calculations that assign 25 students for grades 1-6, 44 students for half day kindergarten where it is currently provided, 22 students for all day kindergarten where it is currently provided, and an effective class size of 22.5 students for secondary grades.]

[S3] S2 Grade Levels

Each cluster must be assessed separately at each of the three grade levels -- elementary, intermediate/middle, and high school.

[S4] S3 Determination of Adequacy

[After the Council has approved the FY 2005-2010 CIP, the Planning Board must recalculate the projected school capacity at all grade levels in each high school cluster. If the Board finds that public school capacity will be inadequate at any grade level in any cluster, but the projected enrolment at that level will not exceed 110% of capacity, the Board may approve a residential subdivision in that cluster during FY 2005 if the applicant commits to pay a School Facilities Payment as provided in County law before receiving a building permit for any building in that subdivision. If projected enrollment at any grade level in that cluster will exceed 110% of capacity, the Board must not approve any residential subdivision in that cluster during FY 2005.

After the Council in 2005 has approved the amended FY 2005-2010 CIP, the Planning Board again must recalculate school capacity. If capacity at any level is projected to be inadequate, the Board must take the actions specified in the preceding paragraph in FY 2006.]

Each year, after the County Council adopts or amends the Capital Improvements Program, the Planning Board must evaluate available capacity in each high school cluster and compare enrollment projected by Montgomery County Public Schools for each fiscal year with projected school capacity in 5 years.

S4 Moratorium on Residential Subdivision Approvals

In considering whether a moratorium on residential subdivisions must be imposed, the Planning Board must use 135% of Montgomery County Public Schools program capacity as its measure of adequate school capacity. This capacity measure must not count relocatable classrooms in computing a school's permanent capacity. If projected enrollment at any grade level in that cluster will exceed 135% of capacity, the Board must not approve any residential subdivision in that cluster during the next fiscal year.

S5 Imposition of School Facilities Payment

In considering whether a School Facilities Payment must be imposed on a residential subdivision, the Planning Board must use 110% of Montgomery County Public Schools' program capacity as its measure of adequate school capacity. This capacity measure must not count relocatable classrooms in computing a school's permanent capacity. If projected enrollment at any grade level in that cluster will exceed 110% of capacity, the Board may approve a residential subdivision in that cluster during the next fiscal year if the applicant commits to pay a School Facilities Payment as provided in County law before receiving a building permit for any building in that subdivision.

[S5] S6 Senior Housing

If public school capacity is inadequate in any cluster, the Planning Board may nevertheless approve a subdivision in that cluster if the subdivision consists solely of multifamily housing and related facilities for elderly or handicapped persons or multifamily housing units located in the age-restricted section of a planned retirement community.

S6 Clusters in municipalities

If public school capacity will be inadequate in any cluster that is wholly or partly located in Rockville, Gaithersburg, or Poolesville, the Planning Board may nevertheless approve residential subdivisions in that cluster unless the respective municipality restricts the approval of similar subdivisions in its part of the cluster because of inadequate school capacity.]

S7 Development District Participants

The Planning Board may require any development district for which it approves a provisional adequate public facilities approval (PAPF) to produce or contribute to infrastructure improvements needed to address inadequate school capacity.

Guidelines for Water and Sewerage Facilities

In accordance with the Adequate Public Facilities Ordinance, applications must be considered adequately served by water and sewerage if the subdivision is located in an area in which water and sewer service is presently available, is under construction, is designated by the County Council for extension of service within the first two years of a current approved Comprehensive Water Supply and Sewerage Systems Plan (i.e., categories I, II, and III), or if the applicant either provides a community water and/or sewerage system or meets Department of Permitting Services requirements for septic and/or well systems, as outlined in the Adequate Public Facilities Ordinance. These requirements are determined either by reference to the Water and Sewerage Plan, adopted by the Council, or by obtaining a satisfactory percolation test from the Department of Permitting Services.

Applications must only be accepted for further Planning staff and Board consideration if they present evidence of meeting the appropriate requirements.

Guidelines for Police, Fire and Health Services

The Planning Board and staff must consider the programmed services to be adequate for facilities such as police stations, firehouses, and health clinics unless there is evidence that a local area problem will be generated. Such a problem is one which cannot be overcome within the context of the approved Capital Improvements Program and operating budgets of the relevant agencies. Where such evidence exists, either through agency response to the Subdivision Review

committee clearinghouse, or through public commentary or Planning staff consideration, a Local Area Review must be undertaken. The Board must seek a written opinion from the relevant agency, and require, if necessary, additional data from the applicant, to facilitate the completion of the Planning staff recommendation within the statutory time frame for Planning Board action. In performing this Local Area Review, the facility capacity at the end of the sixth year of the approved CIP must be compared to the demand generated by the "most probable" forecast for the same year prepared by the Planning Department.

Guidelines for Resubdivisions

An application to amend a previously approved preliminary plan of subdivision does not require a new test for adequacy of public facilities if:

Revisions to a preliminary plan have not been recorded, the preliminary plan has not expired, and the number of trips which will be produced by the revised plan is not greater than the number of trips produced by the original plan.

Resubdivision of a recorded lot involves the sale or exchange of parcels of land (not to exceed a total of 2,000 square feet or one percent of the combined area, whichever is greater) between owners of adjoining properties to make small adjustments in boundaries.

Resubdivision of a recorded lot involves more than 2,000 square feet or one percent of the lot area and the number of trips which will be produced by the revised plan is not greater than the number of trips produced by the original plan.

Timely Adequate Public Facilities Determination and Local Area Transportation Review under Chapter 8.

APF1 General.

Except as otherwise provided by law, an adequate public facilities determination or local area transportation review conducted under Article IV of Chapter 8 [(Buildings)] must use the standards and criteria applicable under this Resolution when evaluating the adequacy of public facilities to serve the proposed development.

APF2 Traffic Mitigation Goals.

Any proposed development that is subject to requirements for a traffic mitigation agreement under Article IV of Chapter 8 and [Chapter] §42A-9A of the County Code must meet the traffic mitigation goals specified in paragraphs (1) or (4), as appropriate.

- (1) Subject to paragraph (2), the portion of peak-period nondriver trips by employees of a proposed development must be at least the following percentage greater than the prevailing nondriver mode share of comparable nearby land use:

In Policy Areas With LATR CLV Standard of	Required Percentage Greater Than Prevailing Nondriver Mode Share
1800 and 1600	100%
1550	80%
1500	60%
1475 and 1450	40%

LATR CLV standards for each policy area are shown on Table 1.

- (2) The portion of peak-period nondriver trips by employees calculated under paragraph (1) must not be less than 15% nor higher than 55%.
- (3) The applicant for a proposed development in a policy area specified under paragraph (1) is responsible for reviewing existing studies of nondriver mode share; conducting new studies, as necessary, of nondriver mode share; and identifying the prevailing base nondriver mode share of comparable land uses within the area identified for the traffic study. Comparable land uses are improved sites within the area identified for the traffic study for the proposed development that have similar existing land use and trip generation characteristics. As with other aspects of the traffic study required by Article IV of Chapter 8, selection of the comparable studies and land uses to be analyzed and determination of the prevailing base nondriver mode share are subject to review by the Planning Department and approval by the Department of Public Works and Transportation.

- (4) Proposed development in the Silver Spring CBD must meet the commuting goals specified under TP3.
- (5) In accordance with County Code §42A-9A, the applicant must enter into an agreement with the Director of the Department of Public Works and Transportation before a building permit is issued. The agreement may include a schedule for full compliance with the traffic mitigation goals. It must provide appropriate enforcement mechanisms for compliance.
- (6) As provided by law, these goals supersede traffic mitigation goals established under §42A-9A(a)(4).

Issues to be Addressed in the Future

Scheduling of items by the Planning Board under this Section may be reviewed and modified at the Board's regular work program meetings with the County Council.

[F1. Time Limits of a Finding of Adequate Public Facilities: The Planning Board must examine the number, age, and other characteristics of projects in the pipeline of approved development and make recommendations for revising the time limits of a finding of adequate public facilities, including extension provisions.]

[F2. Adequacy of Police and Fire/Rescue Facilities: The Planning Board, in cooperation with appropriate Executive branch agencies and after consulting the Council's Public Safety Committee, must consider potential options for testing the adequacy of public safety (police and fire/rescue) infrastructure.]

[F3. Maximum Unmitigated Trip Level for Metro Station Areas: The Planning Board must submit to the Council by February 1 an AGP amendment proposing a specific maximum number of unmitigated trips for each Metro Station Policy Area under the Alternative Review Procedure for Metro Station Policy Areas, considering its current number of jobs and housing units and its current congestion levels.]

[F4: Annual Development Approval Report: The Planning Board must submit to the County Council by September 15 each year an updated report listing and describing significant developments approved by that date or expected to be approved by the following July 1 that would impact road and school capacity. The report must include a prioritized list of road and intersection improvements based on current and projected congestion patterns and additional anticipated development.]

[F5: Measuring the effect of ATMS: The Planning Board, with the aid of the Executive and interested transportation professionals and citizens, must evaluate the effect associated with various Advanced Transportation Management System technologies, such as possible increase in intersection capacity or spreading of peak period volumes. A pilot study, perhaps funded as a public/private partnership, should be conducted in one or two selected corridors where these technologies are planned to be installed to quantify the incremental benefits of various technologies, such as automatic vehicle locators in transit vehicles, extended green time at signalized intersections for transit vehicles, real time traffic signal timing, video surveillance, and incident management. If the study identifies actions, the Planning Board should propose policy changes for Council approval, to be implemented in the Board's Local Area Transportation Review guidelines based on the study's findings.]

F1. Biennial Growth Policy Report: In accordance with County Code §33A-15, the Planning Board must submit its recommended Growth Policy to the County Council by June 1 of each odd-numbered year. Beginning in 2009, this biennial growth policy must include: an analysis of current and future pace and pattern of growth in the County and the factors affecting demand for public facilities in established communities; an update on the County's success in meeting a set of indicators as developed in F2; an implementation status report for each master plan and sector plan, including a review of how planned development is proceeding, and whether the public actions/facilities in the plan are occurring in a timely way; the contents of the Highway Mobility Report (which would move to a biennial schedule); and a comprehensive list of priority facilities that are recommended for addition to the Capital Improvements Program. The report may also recommend other public actions needed to achieve master plan objectives, or to improve the County's performance on its adopted set of indicators. The Board must also include recommendations for changing policy area boundaries to be consistent with adopted master plans or sector plans or changes to municipal boundaries.

F2 Sustainability Indicators Program: The Planning Board, with the aid of the Executive and with broad public participation, must develop a set of sustainability indicators addressing issues of environment, social equity, and economy. These indicators must be suitable to guide land use and other public policy decision-making, including capital programming and design of public facilities.

F3: Design of Public Facilities: The Planning Board, with the aid of the Executive, must convene a “design summit” of public agencies involved in the design and development of public facilities and the review of private land development to develop a consensus and commitment to design excellence as a core value in all public and private projects, and focus on how to improve design of public facilities and private development through various means including better coordination among agencies. The Board must report its findings to the County Council by July 1, 2008.

F4: Enhanced Intersection Data Collection: The Planning Board must include in its recommended FY2008 budget a request for additional funds to expand its database of current traffic counts to allow a more comprehensive analysis of congestion conditions and verify developer-provided traffic counts.

F5: Impact Tax Analysis: An interagency staff workgroup composed of representatives of Executive branch agencies, the County Council, the Planning Board, and the Board of Education, should address impact tax issues contained in the long-term infrastructure financing recommendations in the Board’s 2007-2009 Growth Policy, including further refinement of land use categories and consideration of charging impact taxes for additional public facilities or purposes.

This is a correct copy of Council action.

Linda M. Lauer
Clerk of the Council



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

OFFICE OF THE CHAIRMAN

May 21, 2007

The Honorable Marilyn Praisner, President
The Montgomery County Council
100 Maryland Avenue
Rockville, Maryland 20850

President Praisner and Members of the County Council:

I am pleased to transmit for your consideration the draft 2007 County Growth Policy Resolution and amendments to the County Code required to implement certain aspects of the resolution, together with a supporting document, TOWARD SUSTAINABLE GROWTH FOR MONTGOMERY COUNTY: A GROWTH POLICY FOR THE 21ST CENTURY. This document contains a summary of major growth policy recommendations of the Planning Board, and the final staff report. The Board unanimously approved the draft resolution at its regular meeting on May 17, 2007.

The draft resolution, bill, and report address the issues raised in Council Resolution 16-17 (December 12, 2006), which directed the Board to conduct the analysis and make recommendations for managing growth. Accordingly, the draft resolution and the accompanying reports include:

- Recommendations for tools to manage growth and fund infrastructure;
- Recommendations to better coordinate the County's growth management and affordable housing goals;
- Analysis and recommendations regarding tests for the adequacy of school, transportation, and other facilities;
- An update of the Board's 2005 analysis of the number, age, and characteristics of projects in the development pipeline;
- Analysis and recommendations concerning impact taxes;
- Recommendations for further study.

Several of the recommendations will undoubtedly occupy a major portion of the Council's deliberations on Growth Policy, as they did of the Board's discussions. The Board urges, however, that we not lose sight of the central theme of the proposal: that development should be managed in ways that contribute to the *sustainability* of our facilities, communities, and

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resources; not merely to provide for the *adequacy* of facilities to accommodate each new increment of growth.

It is now *possible* to make sustainability the goal of growth policy because of the experience the county has gained in managing its growth, along with advances in technologies and skills in state-of-the-art modeling and analysis.

It is *necessary* to manage for sustainability because of the convergence of great natural, economic, and social forces, each of which has profound implications for where and how we use land, facilitate mobility, and design the built environment. These forces include global climate change and the impact of urbanization on energy consumption, carbon sequestration, and fragile landscapes and watersheds. Restructuring of the world's economy places the county in position for long term regional economic leadership because of the high proportion and cultural diversity of our bank of knowledge workers—if we sustain the quality and equity of our education system. Demographic shifts combined with the information revolution, has changed housing and community preferences, as well as what is done, who does it, where it is done, and how it is done.

The aggregate leverage these forces exert on local growth management processes means that concern alone for staging private growth so that it is more proximate in time to the availability of public capital facilities is an insufficient policy. It is equally important to attend to the pattern of growth and the design of communities and centers so that we do not unduly compromise the county's ability to meet future needs. In this sense, growth policy represents an ethical choice about our stewardship of the county; recognition that the choices we make today will be manifest tomorrow and impose benefits and burdens that may endure for generations.

Thus, the Board has proposed that we think of growth policy more broadly than in the past. Now, in addition to managing development of open land in concert with the provision of public facilities to serve the new communities being created, growth policy involves managing the transformation of older suburban centers into vital and varied urban places, the conservation of neighborhoods, and the conversion of an auto-centric mobility system into one that favors increased use of public transportation, biking, and walking.

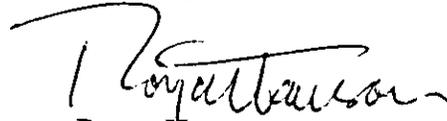
To achieve these goals, we have recommended a closer connection between Growth Policy and the Capital Improvement Program in order to provide better prioritization, in time and significance, of key projects. We have proposed substantial increases in development impact taxes and fees that allocate the marginal cost of new transportation and school infrastructure to the development that induces need for it and to help the county remain fiscally sustainable. Changes are proposed in the tests to be used to assess the adequacy of facilities to make them more understandable and useful in both the planning and regulatory processes. Suggestions are offered for creating a culture of design excellence to produce

The Honorable Marilyn Praisner
Montgomery County Council
May 21, 2007
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more sustainable communities and centers and to achieve environmental, energy, and mobility goals. And, finally, we have proposed including in all future Growth Policy reports a system of monitoring outcomes associated with policy objectives to assist the county in making timely course corrections in growth policy, plans, and regulations.

The Board and staff look forward to the Council's public hearings and participating with you in further discussion of the 2007 Growth Policy.

Sincerely,

A handwritten signature in black ink, appearing to read "Royce Hanson", written in a cursive style.

Royce Hanson
Chairman

RH/jh

**Statement by County Executive Isiah Leggett
On Planning Board's Draft of Growth Policy Changes**

"Our Growth Policy is broken and needs to be fixed. That's why the Montgomery County Planning Board's work on proposed changes to that policy is a welcome contribution to a critical debate.

"I support the changes designed to tighten the School Adequacy Test to make sure that development does not occur in areas where schools are already overcrowded. In the past, policymakers could get around this test by 'borrowing' capacity from another cluster. These changes would end that practice and that's good. And the standards should kick in when a school is at 100 percent capacity, not 105 or 110 percent.

"In 2003, the County Council did away with a critical traffic test that developers had to satisfy – the Policy Area Transportation Review. That was a big mistake. In the Planning Board's draft changes, a Policy Area Mobility Review would be required. This is an appropriate first step, but I am concerned that it's not stringent enough.

"Tests are not tests if everyone gets a passing grade. I am concerned that what we put on paper reflect the reality that County residents are seeing day in and day out. We should not adopt a policy that claims there is adequate transportation infrastructure to accommodate future growth in any area when traffic is stacked up and portable classrooms proliferate like mushrooms after a rain.

"I believe that developers must pay a greater share of the schools, roads, and other public infrastructure costs that serve their projects. That's only fair and just.

"I think, however, that doubling the school and transportation impact taxes, as the Planning Board draft suggests, may be too great an increase. We should substantially increase these taxes but should not assume that the Planning Board figure is the right figure.

"I am concerned that too huge an increase in impact taxes could compromise too substantially our commitment to encouraging more affordable housing in the County. There is a tipping point there -- and I think these proposed increases may be beyond it.

"I appreciate the Planning Board's work and look forward to participating in the process of establishing a Growth Policy that works for County residents and is rooted in our everyday realities.

"There is much about growth and development -- and even traffic -- that is beyond our County's control. We should, however, do what we can do and make sure that growth, where it will occur, is accompanied by the infrastructure necessary to support it.

"Everyone must have a seat at the table and a voice in the outcome of this critical debate and we must make sure that the public interest is front and center. Montgomery County residents expect – and deserve – no less.

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