

Councilmembers: Please bring your copies of the Growth Policy document “Reducing Our Footprint” and its Technical Appendix to the worksession. Also, please retain this packet for the November 3 worksession.

M E M O R A N D U M

October 23, 2009

TO: County Council

FROM: ^{GO} Glenn Orlin, Deputy Council Staff Director
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SUBJECT: **Worksession**—2009-2011 Growth Policy

The Planning Board transmitted its Final Draft of the 2009-2011 Growth Policy this summer. Both the County Executive and the Board of Education (BOE) sent comments on the Final Draft to the Council by the statutory deadline of September 15 (©1-7 and ©8-14, respectively). The Council held its public hearing on September 22, and the Planning, Housing, and Economic Development (PHED) Committee held worksessions on October 6, 19, and 20.

This worksession will begin with a brief overview from the Planning Board.

I. PUBLIC SCHOOL CAPACITY TEST (pp. 46-48)

The school test examines the projected five-year forecast of enrollment by high school cluster and by level (ES, MS, and HS) to the respective program capacity by cluster and level five years from now. Relocatable classrooms are not counted in calculating program capacity. The enrollment forecast is produced by MCPS staff, and the capacity is determined by the teaching stations programmed by the Council in the CIP and the programs in teaching stations determined by the BOE.

If a cluster exceeds 120% of program capacity at any level, no more residential units may be approved at subdivision, except for senior housing and de minimus subdivisions of 3 or fewer units. If a cluster exceeds 105% of program capacity at any level — but does not exceed 120% — then residential units may be approved, conditioned on payment of a School Facilities Payment (SFP) at the time of building permit issuance; senior housing is exempt. (The current SFP schedule, as prescribed by law, is \$19,515 for each ES student generated, \$25,411 per MS student, and \$28,501 per HS student.) A queue of potential approvals is kept for each cluster and level; new residential subdivisions are limited up to the 120% cap, and any development that would bring a cluster-and-level above 105% has to pay a SFP for the units above 105%.

1. Interpretation of the moratorium and SFP thresholds. According to the Planning Board and BOE, there are 3 clusters in moratorium (B-CC, Seneca Valley, and Clarksburg) and 9 clusters within the SFP range. This was determined by dividing the five-year enrollment forecast at each cluster and level by the respective five-year program capacity at each cluster and level, rounding to the nearest full percentage, and then determining whether the result exceeds 120% or 105%.

However, the Growth Policy says nothing about rounding. This is a key point, because the Northwest Cluster is actually over 120% at the ES level: with a projected enrollment of 4,178 students and a projected program capacity of 3,478, its ratio is 120.13%. Furthermore, if the Council were to change the SFP threshold from 105% to 110%, the Whitman Cluster would remain in the SFP range for ES students: with a projected enrollment of 2,272 students and a projected program capacity of 2,061, its ratio is 110.24%. Continuing to allow rounding would drop the Whitman Cluster out of this range.

The Growth Policy is a regulatory tool, and boundaries must be very precisely administered. There are precise geographic boundaries for clusters and policy areas: whether it's on one side of the line or the other often determines whether a subdivision can be approved. A subdivision will fail if one of its affected intersections falls 1 CLV short of the LATR standard. By rounding the results for the school test, the effect is actually that the moratorium threshold is 120.499...%, not 120%, and the SFP threshold is 105.499...%, not 105%.

PHED Committee (and Council staff) recommendation (3-0): Find that the Northwest Cluster is in moratorium, and clarify that in calculating enrollment-to-capacity for the school test the results must not be rounded.

2. Setting the moratorium threshold. The Planning Board, BOE, the Executive, the Montgomery County Council of Parent-Teacher Associations (MCCPTA), the Montgomery County Civic Federation (MCCF), and a host of individual PTAs and civic organizations all recommend continuing the 120% threshold for moratorium.

The Montgomery County Chamber of Commerce and the Maryland-National Capital Building Industry Association (MNCBIA) recommend raising this threshold to 135%, which the Planning Board and BOE recommended in 2007. They note that raising the threshold would allow more subdivisions to be approved which would pay the SFP, thus raising more funds for school capacity. They also point out that a large majority of enrollment growth in a cluster is caused by factors other than more dwelling units. MNCBIA and the Greater B-CC Chamber propose an exemption to the school test for residential development in Central Business Districts and Metro Station Policy Areas (MSPAs), noting that these developments produce very few students and smart growth development is currently thwarted by the policy, at least in Bethesda and Friendship Heights.

PHED Committee (and Council staff) recommendation (3-0): Retain the current 120% definition for a moratorium. The current definition indicates overcrowding sufficient to warrant a moratorium. Any moratorium is likely to be temporary, anyway — only one or two years, at the most — because the Council has responded readily to school overcrowding by programming hundreds of millions of dollars for new schools and additions, even when State aid is insufficient. This contrasts to a

moratorium under PAMR, which can take many years to dig out from considering the long lead-time to plan, design, and build transportation projects and their considerable cost.

The Council can eliminate these moratoria in the short term by programming funds in the CIP so that new capacity in the affected clusters and levels will open by August 2014, and by allowing the Planning Board to make a mid-cycle finding on adequacy. On ©15-18 are project description forms (PDFs) that would program funds to add sufficient capacity within 5 years in the 4 moratorium clusters (including Northwest) to bring them out of moratoria. MCPS staff developed these cost estimates at Council staff’s request. The total cost of these projects is \$31,890,000, but there are sufficient funds in the CIP reserve to absorb the cost:

G.O. Bond Reserve in the FY09-14 CIP (\$ millions)

	FY10	FY11	FY12	FY13	FY14	Beyond FY14
G.O. Bond reserve	13,828	19,872	20,474	62,342	51,251	-
B-CC ES Solution	-	-	(719)	(4,586)	(6,925)	(2,360)
Clarksburg MS Solution	-	-	(315)	(1,667)	(1,974)	(444)
Northwest ES Solution	-	-	(466)	(3,023)	(3,068)	(4,543)
Seneca Valley ES Solution	-	-	-	(173)	(876)	(751)
Reserve balance	13,828	19,872	18,974	52,893	38,408	-

There is precedent for this. The model is the Upcounty Solution PDF approved in the FY01-06 CIP, which programmed — but did not appropriate — 26 more classrooms in the Upcounty (20 for Northwest HS and 16 at Gaithersburg HS). This was done, as noted on the PDF, to prevent the Damascus and Watkins Mill Clusters from going into residential moratoria. The PDF also noted that “alternative solutions to meet the capacity requirements in the Upcounty may be considered in future years” so as not to bind the BOE to these specific additions. In effect, it was a funding placeholder to be used for whatever the BOE ultimately would propose. During the next two years, based on BOE requests, the funds were shifted — and appropriated — to the Northwest HS Addition and Gaithersburg HS Addition projects, and also to the Clarksburg HS (Rocky Hill Conversion) project.

PHED Committee (and Council staff) recommendation (3-0): Approve the following Growth Policy amendments to allow the Planning Board to make a mid-cycle finding of adequacy based on additional capacity:

S3 Determination of Adequacy

Each year, not later than July 1, 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 at any time during fiscal year 2010 the County Council notifies the Planning Board of any material change in the Montgomery County Public Schools Capital Improvements Program, the Planning Board may revise its evaluation to reflect that change.

S4 Moratorium on Residential Subdivision Approvals

In considering whether a moratorium on residential subdivisions must be imposed, the Planning Board must use 120% of Montgomery County Public Schools program capacity as its measure of adequate school capacity. This [capacity] utilization 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 120% [of capacity] utilization, the Board must not approve any residential subdivision in that cluster during the next fiscal year. If the Planning Board revises its measure of utilization during fiscal year 2010 because of a material change in projected school capacity, that revision must be used during the rest of that fiscal year in reviewing residential subdivisions.

* * *

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 105% of Montgomery County Public Schools' program capacity as its measure of adequate school capacity. This [capacity] utilization 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 105% [of capacity] utilization but not exceed 120% utilization, 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. If the Planning Board revises its measure of utilization during fiscal year 2010 because of a material change in projected school capacity, that revision must be used during the rest of that fiscal year in reviewing residential subdivisions.

PHED Committee (and Council staff) recommendation (3-0): Introduce and adopt the 4 CIP amendments on ©15-18. These amendments are on the Council's October 27 agenda for introduction. Within the next two years the BOE is likely to request new CIP projects that would program at least this much money (possibly on an accelerated schedule) from which the funds in these PDFs could be transferred.

MCCF and some individual PTAs and civic organizations recommend applying the 120% test at each ES, rather than in the cluster as a whole. (MCCPTA recommends studying this.) They note that a cluster may average under 120%, but individual schools within that cluster are sometimes much higher than 120%. But there is a cost-conscious solution to such a problem: a boundary change among ES service areas in the cluster.

3. Setting the SFP threshold. The Planning Board and BOE recommend raising the threshold from 105% to 110%. If that were done, 3 clusters would fall out of the SFP range this fiscal year: Walter Johnson, Paint Branch, and Quince Orchard, all at the ES level. (As noted above, the Whitman Cluster would remain in the SFP range at the ES level.) The Superintendent notes (©11):

In reviewing clusters that exceed 105 percent utilization, cases can be found where space deficits at schools in a cluster that is over 105 percent utilization are not sufficient to require that additional capacity be requested. Use of a 110 percent threshold would more accurately identify clusters in which school capacity projects are needed.

The Executive, MCCPTA, MCCF, the Town of Chevy Chase, and a host of individual PTAs and civic organizations recommend retaining the 105% threshold for the SFP, citing the potential revenue lost from the clusters in the 105-110% range.

PHED Committee (and Council staff) recommendation (2-1): Councilmembers Knapp and Floreen concur with the Planning Board and BOE to raise the threshold to 110%. The BOE’s position is the key here. Since it does not find the need to request capital funding for new schools or additions until 110% is reached, then there is no justification for this exaction until the enrollment/capacity ratio reaches this level. **Councilmember Elrich would retain the 105% threshold.** His concern is that residential developments in clusters over capacity by 5-10% would not pay for mitigation.

4. Grandfathering development applications. The Planning Board recommends allowing a residential subdivision in a moratorium cluster to proceed if a complete development application was filed within 12 months before the moratorium took effect. The Board makes the point that new residential development is only a small factor in whether a cluster exceeds the 120% threshold, and that much expense goes into preparing a development application before it is submitted. The BOE supports the Planning Board’s recommendation; the Superintendent notes that “this is a reasonable concession when seen in conjunction with the relatively tight threshold for a moratorium at 120 percent.” The Executive also supports it since it “allows for more certainty when artificial blips occur from presumably temporary changes in the economy and unanticipated demographic changes.”

The MCCPTA, MCCF, and several individual PTAs and civic associations oppose grandfathering. They argued that a finding of insufficient capacity should result in no more development approvals until the ratio falls below the 120% threshold.

The Planning staff estimates that the developments that would be grandfathered would generate 34 more students countywide:

Cluster (grandfathered developments)	ES students	MS students	HS students	Total students
B-CC (2)	6	5	5	16
Clarksburg (1)	4	2	2	8
Northwest (1)	5	2	3	10
Seneca Valley (0)	0	0	0	0
Total	15	9	10	34

PHED Committee (and Council staff) recommendation (3-0): Do not allow grandfathering. If the Council approves the CIP projects and Growth Policy amendment described in Section I.2, a grandfather provision is not needed.

5. Transferring school capacity. The Planning Board would allow the developer of an approved residential subdivision that is not proceeding to construction to sell its school capacity to another potential subdivision in the same cluster. The Executive concurs, but he has “some concerns about the administration of this process and that we are creating value in unviable projects.”

The BOE opposes trading of subdivision approvals in clusters that are in moratorium, noting that while today “paper” overcrowding might be projected from dormant subdivisions that are not likely to materialize, trading may result in actual overcrowding from subdivisions that will be built. MCCF opposes trading, except in the same ES service area.

PHED Committee (and Council staff) recommendation (3-0): Do not allow school capacity transfers. The BOE is right that paper overcrowding is better than real overcrowding. Furthermore, creating a private marketplace for subdivision approvals is poor policy. Rather than APF approvals being sold to the highest bidder, it would be better if the dormant subdivisions are allowed to expire, opening up new capacity (except in moratorium areas) for other subdivisions higher in the development queue.

6. Use of the SFP. In the past 2 years, nearly 1,400 residential units have been approved in subdivisions where an SFP is not proceeding to building permit, almost \$2 million will ultimately be collected to fund capacity-adding projects for the clusters in which the subdivisions were approved.

The use of SFP revenue is specified in §52-94(e) of the County Code, not in the Growth Policy. The law states:

The Department of Finance must retain funds collected under this Section in an account to be appropriated for MCPS capital improvements that result in added student capacity for the school cluster, or if no cluster is established, another geographic administrative area, where the development for which the funds were paid is located.

The law actually allows more flexibility than it might. If an SFP payment is made due to a shortage in ES space in a cluster, it can be used to fund more space for that cluster at *any* level: ES, MS, or HS.

The BOE recommends allowing SFP revenue to be spent on any project in the County that adds student capacity. It argues that the funds are likely to accumulate in small amounts by cluster, not enough to fund any single capacity improvement in that cluster. MCCPTA disagrees: “Decoupling the facilities payment from the area where the facilities are needed would bring the development but would not bring the relief to our students.” MCCPTA does agree that SFP revenue should be used in an adjacent cluster, however, if an improvement there ameliorates overcrowding in the home cluster. It mentions schools that have split-articulation.

PHED Committee (and Council staff) recommendation (3-0): Do not change the law. The current law allows funding of improvements that result in added student capacity *for* the school cluster. This should cover additions to schools with split-articulation. For example, the BOE is studying the potential of expanding Bradley Hills ES in the Whitman Cluster; if coupled with split-articulation or a full boundary change, this would relieve overcrowding in the B-CC Cluster. If the BOE decides to do this, SFP revenue generated in the B-CC Cluster could help fund a Bradley Hills ES addition.

II. ALTERNATIVES TO PAMR

Policy Area Mobility Review (PAMR) was developed by the Planning Board in 2007 in direct response to the Council’s call to restore a form of policy area review to the transportation test. Many have criticized PAMR’s complexity and perceived lack of predictability. The Executive expresses his dissatisfaction with PAMR in his comments to the Council (see ©1), and has directed the Department of Transportation to hire a consultant to develop alternative forms of policy area review for the transportation adequacy test. DOT hired Dr. Robert Winick under an \$110,000 contract to conduct this study. Dr. Winick, President of Motion Maps, LLC, served as the Planning Board’s Transportation

Planning Chief from the mid-1970s until 1992 and was the primary architect of the initial Policy Area Transportation Review (first called the “threshold” test, later the “ceiling” test). The scope of work for this study is on ©19-23. This study will take several months, so if it leads to an Executive recommendation, that would come as a proposed Growth Policy amendment next year (©24-26).

The public hearing testimony suggests several alternatives to PAMR. The Montgomery County Civic Federation (MCCF) has several recommendations including: splitting PAMR into two separate tests that applicants would have to meet — a Policy Area Roads Test and a Policy Area Transit Test — along with Local Area Transportation Review (LATR); changing the Policy Area Transit Test, perhaps by switching to test travel times for the same point-to-point transit and auto commute trips; applying the Policy Area Roads Test to either the morning or evening peak period, whichever is worse, rather than automatically to the evening peak period; and reinstating capacity ceilings (©27-33). The Action Committee for Transit (ACT) recommends that PAMR be replaced with a policy area test that limits vehicle miles of travel (VMT) and that LATR be replaced with a test restricting the number of motor vehicle trips generated by a development (©34-36).

Several business groups recommend the outright elimination of PAMR or at least its suspension until the next Growth Policy update. Some would replace the transportation tests with an annual impact fee, imposed for 20 years, to pay for infrastructure. The letters from Steve Elmendorf (representing Percontee) and MNCBIA are examples (©37-39 and ©40-45, respectively).

In the 2007-2009 Growth Policy resolution the Council directed the Planning Board to produce six specific studies by August 1, 2008, including a study of alternatives to PAMR. The Board transmitted the studies on July 29, 2008 (see transmittal letter on ©46-49), including “Study F3: Alternatives to Policy Area Mobility Review (PAMR)” (©50-62). One option, “Proportional Staging”, had been developed earlier this decade but was not proposed by the Board; at the October 6 PHED worksession DOT staff indicated an interest in some variation of Proportional Staging. Another option was to calculate Relative Transit Mobility by comparing point-to-point auto-versus-transit travel times — “Disaggregated Relative Transit Mobility” — which produces more conservative results than the current methodology. The Planning staff also examined a version of PAMR without Relative Transit Mobility, using regional accessibility as the measure for policy area review, rendering the trip reduction option in Metro Station Policy Areas mandatory, and changing PAMR’s de-minimis and payment-in-lieu provisions.

Councilmember Elrich recently crafted a draft proposal for policy area transportation adequacy, along with other related points. This proposal would feature separate tests for arterial and transit adequacy (©63-64).

Council staff does not recommend eliminating or replacing the basic PAMR and LATR methods for this Growth Policy. The Council decided just last month not to include staging in the Germantown Employment Area Sector Plan precisely because there was a subdivision staging method in the Growth Policy. To eliminate policy area review would leave only LATR as a transportation staging tool. (Although the Council eliminated Policy Area Transportation Review in 2003, it was with the understanding that more detailed staging would be needed in later master and sector plans; such detailed staging was included in the Shady Grove Sector Plan, adopted in 2004.) Some area-wide staging mechanism should be retained in the Growth Policy.

The proposals of Councilmember Elrich, MCCF, ACT and others for a new policy area review method should be subject to considerable study and public vetting; realistically, this cannot occur by the November 15 deadline to readopt the 2009-2011 Growth Policy. These ideas should be evaluated by the Executive's consultant and Planning staff. The same holds for proposed changes to LATR methodology, such as basing intersection capacity on something other than Critical Lane Volume (CLV) and queuing analysis.

III. CHANGES TO PAMR AND LATR

The Planning Board recommends some changes to PAMR. Planning staff proposed other revisions that the Board did not approve and developed others later based on further discussions with stakeholders. Still other changes were proposed in the hearing testimony.

1. PAMR mitigation ranges. PAMR allows poorer arterial mobility where there is good transit mobility and poorer transit mobility where there is good arterial mobility. This general concept has been part and parcel of every Growth Policy (and the Planning Board's precursor, the Comprehensive Planning Policies Report) for nearly 3 decades. The PAMR chart includes a point (represented by a ▲) for each policy area, graphing its Relative Arterial Mobility (RAM) and Relative Transit Mobility (RTM). On the PAMR chart, think of the upper-right (or "northeast") corner as commuter nirvana and the lower-left (or "southwest") corner as Manhattan during a subway strike.

On the chart each "step" shows the boundary between an unacceptable level of service for RAM for each level of service of RTM, and vice versa. Currently 4 policy areas — North Potomac, Germantown East, Fairland/White Oak and Gaithersburg City — fall in the unacceptable realm, which means that 100% of a development's trips in any of these areas must be fully mitigated for it to be approved. This is the same as a policy area in "moratorium" under the pre-2004 Policy Area Transportation Review.

The broken line connecting the tops of the each successive step shows the boundary between what is acceptable and where partial mitigation is needed. Under the current PAMR method, if a policy area's ▲ lies between the line and a step, the degree of partial mitigation can range from 5% to 45%: smaller if closer to the line, greater if closer to the step. Currently 12 policy areas are in the partial mitigation realm, and 5 other policy areas are in the acceptable range (where the PAMR test is passed with no conditions). Under PAMR, a development in a Metro Station policy area (MSPA) has the same mitigation requirement as a development in the larger policy area surrounding it. For example, since 35% mitigation is required in North Bethesda, 35% is also required in Grosvenor, White Flint, and Twinbrook.

Several changes to this chart have been proposed:

a) Add a step. The Planning Board would add another step to the chart. This would allow an equivalency between an 'E' level of service for RAM if the RTM were 'B' or better. The existing chart would not let RAM get worse than 'D,' and, similarly, would not acknowledge the value of any better

RTM level of service than ‘C.’ ACT supports adding this step, but the Executive, MCCF, and most others who testified oppose it, not wanting the average level of service for RAM to fall below ‘D.’

Although no policy area would have its ▲ fall within the ‘E’ range for RAM, adding this step would change the shape of part of the diagonal line separating the acceptable realm from the partial mitigation realm. As a result, 5 policy areas which now require some partial mitigation would require no mitigation, including all policy areas with MSPAs except North Bethesda. In North Bethesda, the partial mitigation requirement would drop from 35% to 20%.

b) Change the partial mitigation range. Two years ago the Council allowed the partial mitigation realm to range between 5% and 45%, but above 45% mitigation it went directly to 100%. Council staff recommended then — and still does — that partial mitigation should range to just short of 100%, say in 10% increments from 10-90%. This would result in a less drastic change if a ▲ moves a short distance near the partial mitigation/full mitigation boundary. All else being equal, this change would require more partial mitigation for the policy areas in that realm.

c) Replace the steps with a second diagonal line. Over the past few weeks Councilmember Berliner held meetings between some stakeholders and Planning staff regarding PAMR. In these discussions Planning staff raised another chart issue: if being closer to the lower left is bad, why isn’t the demarcation between the partial mitigation and unacceptable (full mitigation) realms a broken line as well? For example, North Potomac is now in the unacceptable realm, requiring 100% mitigation. But is it closer to the low-left corner than Potomac, for which only 40% mitigation is required? A quick visual scan of the two ▲s shows the answer is no. So instead of the steps serving as the boundary between the partial and full mitigation realms, an alternative would be to define the boundary as another diagonal line following the lower-left corners of each level of service step.

d) Shift the existing diagonal line up and to the right. Planning staff also prepared this other option, which differs from (c) by raising the acceptable/partial mitigation boundary by one level of service.

Many combinations of these changes could be adopted; the mitigation requirements of several possibilities are shown in the table below:

- Option 1 is the current PAMR chart, with no changes (©65).
- Option 2 is the current chart (©65), but the partial mitigation range is 10-90%, not 5-45%.
- Option 3 is the Final Draft’s recommendation to add the new step, keeping the 5-45% range for partial mitigation (©66).
- Option 4 adds the new step but uses a 10-90% range for partial mitigation (©66).
- Option 5 uses the current steps and a 10-90% range for partial mitigation, but replaces the steps with a diagonal line connecting the lower-left corners of the level of service steps (©67).
- Option 6 adds the new step, uses a 10-90% range for partial mitigation, and replaces the steps with a second diagonal line connecting the lower-left corners of the level of service steps (©68).
- Option 7 is the same as Option 6, except that the diagonal line separating the acceptable realm from the partial mitigation realm is raised by one level of service increment as in (d) (©69).

Mitigation Requirements

Policy Area	Opt. 1	Opt. 2	Opt. 3	Opt. 4	Opt. 5	Opt. 6	Opt. 6 Modified	Opt. 7
	Current Test	Current+ 10-90%	PB Rec.	PB+ 10-90%	Current+ 10-90% + Diagonal	PB- 10-90% - Diagonal	PHED Rec.	Option 6 w/ Higher Diagonal
Aspen Hill	20%	40%	5%	10%	40%	10%	10%	50%
Bethesda-Chevy Chase	30%	60%	None	None	60%	None	None	40%
Clarksburg	10%	20%	10%	20%	10%	10%	10%	60%
Cloverly	None	None	None	None	None	None	None	None
Damascus	None	None	None	None	None	None	None	50%
Derwood	20%	40%	None	None	40%	None	None	40%
Fairland/White Oak	100%	100%	100%	100%	90%	90%	50%	90%
Gaithersburg City	100%	100%	100%	100%	100%	100%	100%	100%
Germantown East	100%	100%	100%	100%	90%	90%	50%	90%
Germantown West	None	None	None	None	None	None	None	40%
Kensington/Wheaton	10%	20%	None	None	20%	None	None	30%
Mont. Village/Airpark	5%	10%	5%	10%	10%	10%	10%	50%
North Bethesda	35%	70%	20%	40%	70%	30%	30%	60%
North Potomac	100%	100%	100%	100%	40%	40%	40%	70%
Olney	10%	20%	None	None	20%	None	None	40%
Potomac	40%	80%	40%	80%	80%	70%	50%	80%
R&D Village	40%	80%	40%	80%	50%	50%	50%	70%
Rockville City	25%	50%	20%	40%	50%	40%	40%	70%
Silver Spg./Tak. Park	10%	20%	None	None	20%	None	None	30%
Rural East	None	None	None	None	None	None	None	30%
Rural West	None	None	None	None	None	None	None	20%

Council staff recommends Option 6. This would theoretically allow arterial mobility to drop to ‘E’ if transit mobility were ever to improve to ‘B,’ but currently policy area has arterial mobility worse than ‘D.’ It allows the steady increments of partial mitigation from 10% to 90% and eliminates the potential of an area jumping from 45% to 100% mitigation, or the reverse, unless there is a substantial change in circumstances. Chairman Hanson and the Planning staff now endorse Option 6 as well.

PHED Committee recommendation (2-1): Councilmembers Knapp and Floreen support Option 6 Modified, which is the same as Option 6 except that partial mitigation would be capped at 50%. They agree with the rationale for Option 6, but believe that partial mitigation should not be much higher than under the current test, especially since they expect a new test will be in place in the next year or so. **Councilmember Elrich supports Option 5.** He disagrees with the extra “step” in Option 6 that accepts the notion that an average arterial mobility of ‘E’—dropping speeds as low as 25% of free flow speed—is tolerable, even with excellent average transit mobility. He also points out that Option 5 would provide more mitigation, resulting in more transportation improvements.

Councilmember Berliner proposes another option: a variation of Option 5 (©70-71). Option 5 Modified would install a 10-90% partial mitigation range, use a diagonal line instead of stair-step as the boundary between the partial mitigation and full mitigation realms, and restrict the increase in a policy area’s mitigation requirement to 10% from the existing mitigation requirement.

2. Transportation mitigation payment. The transportation mitigation payment (TMP) was created in 2008 to cover de minimis developments which can make a minimum \$11,000/peak-period-trip payment instead of a PAMR improvement. The rationale is that these developments cannot afford to build an improvement commensurate even with the little demand they would create. Instead these payments are aggregated to fund a meaningful improvement. The \$11,000/trip figure is based on the cost of the County transportation facilities in the Council of Governments' Constrained Long Range Plan, divided by the total peak-period trips to be generated by new development. The Final Draft proposes that the minimum payment rate be adjusted annually to reflect construction cost inflation.

The Planning Board would also use this payment as a fallback for a larger-than-de minimis development if Planning staff and DOT staff cannot identify a PAMR solution that the development could reasonably afford to construct.

MNCBIA believes the \$11,000/trip payment is too high. It notes that some of the use of the future transportation facilities will be by through traffic or traffic from government facilities that are exempt from the adequate public facilities tests, and that some of these transportation facilities will be built by developers as conditions for subdivision approval (©43). However, through traffic on County facilities is miniscule: almost all of it is on the Interstates and other State highways. New government facilities — schools, libraries, police and fire stations, etc. — are needed due to additional development, so it is appropriate that the transportation capacity needed to accommodate travel demand from these facilities be borne by new development. Finally, in areas where transportation mitigation is necessary, a development would either build transportation capacity or make the TMP -- not both.

Council staff concurs with setting the TMP at \$11,000/peak-period trip, but recommends that the TMP be established in County law. This would require a follow-up bill to be introduced after the Growth Policy is revised. Similar voluntary developer payment precursors — the Development Approval Payment of the early 1990s, the Expedited Development Approval Excise Tax of the late 1990s, and the School Facilities Payment of this decade — were inserted in the County Code when they were adopted. In all these cases the payment rate and timing, as well as the purpose and the allowed use of the funds, were specified in law.

PHED Committee recommendation (2-1): Councilmembers Elrich and Floreen concur with setting the TMP at least \$11,000/peak-period trip. Councilmember Knapp believes \$11,000/peak-period trip is too high.

PHED Committee recommendation (3-0): Allow the TMP to be used by both de minimis developments and larger developments if Planning staff and DOT staff cannot identify a PAMR solution that the developer could reasonably afford to construct.

3. Alternative Review Procedure. The Planning Board recommends a new Alternative Review Procedure (ARP), which would allow a development to bypass the PAMR test if it:

- is within ½-mile of a bus or rail line that has at least 15-minute service in peak hours;
- is mixed-use with a minimum of 50% residential use;
- achieves at least 75% of the density allowed in the master/sector plan;

- exceeds energy efficiency standards by 17.5% for new buildings or 10.5% for existing renovations, or has on-site energy production such that 2.5% of annual building energy cost is offset by a renewable production system; and
- would apply at least 25% to increasing affordable housing above the levels normally required.

If the development meets all these criteria, then rather than comply with PAMR requirements it could pay \$8,250/peak-period-trip (75% of the TMP): \$5,500/trip for public transit improvements and \$2,750/trip for affordable housing near transit within the development. The Board also recommends that 75% of the transportation impact taxes paid by developments using this ARP be dedicated for public transit improvements.

The Executive raises a fundamental concern about this ARP: while addressing the public policy goals of providing more affordable housing and reducing the carbon footprint, it detracts from the purpose of the Growth Policy, which is to assure the adequacy of public facilities, particularly transportation. The Executive notes that the County is moving on regulatory and legislative fronts to address the lack of affordable housing and prevalence of greenhouse gases (©2). He also points out that the geographic area for the ARP is too broad, and recommends that it be limited to MSPAs and areas where bus service is provided at least every 10 minutes during peak periods and is extended at least over 18 hours on weekdays (©3).

MCCF opposes this ARP. It argues that since transit centers have above-average transit service, any trip mitigation there must result from inadequate road capacity, but the Alternative Review Procedure would not provide congestion relief because the 75% TMP would go either to transit or affordable housing, which would generate more congestion. MCCF also disagreed that, if this ARP were adopted, the TMP should be discounted by 25% (©27).

ACT generally supports this ARP. However, ACT wants the ARP's scope narrowed to MSPAs and areas with at least 10-minute peak headways, 20-minute mid-day headways, 30-minute evening and weekend headways, and 18 hours of service every day (©35).

Council staff shares the concern raised by the Executive that the ARP would detract from the ability to have adequate transportation facilities in place when new growth is built and generating traffic. Providing affordable housing and reducing carbon footprint are also critical public policy goals, but the County, State, and Federal governments are all working to varying degrees on these problems. Only the County has the job of assuring adequate public facilities, though. If an ARP is to be incorporated in the Growth Policy, it should be focused solely on transportation — particularly transit — and only where transit accessibility is already excellent. *Council staff recommends a revised ARP with the following provisions:*

- *Allow the ARP to be an option for any development in a Metro Station Policy Area or the Germantown Town Center Policy Area, but not anywhere else.* These are the only policy areas where transit has high frequency and capacity, as well as a travel time advantage over autos for many trips. The Germantown Town Center qualifies because the Ride On Route 100 shuttle operates on 10-minute headways during peak periods (5-minute headways in the peak of the peaks), 15-minute headways mid-day and early evenings, over 18 hours of service on weekdays,

and over 15 hours of service (at a longer headway) on Saturdays and Sundays. The Route 100 also runs on the I-270 HOV lanes, providing a significant travel time advantage over cars.

The problem with applying the ARP outside these specific policy areas is that there would be no consistent and predictable boundary for ARP-eligibility: adding or subtracting a bus route or increasing or decreasing its frequency could quickly alter the ARP's boundary. Bus service changes are normally made two or three times each year, so the boundary could fluctuate frequently. For budget reasons the County may need to cut back service; those cutbacks should be based on what is best for the overall patronage in the short-term and not be influenced by whether a cutback would shrink an ARP-eligible area.

- *The \$8,250/peak-period trip payment should be spent entirely on transit improvements that directly serve the MSPA (or the Germantown Town Center Policy Area) where the funds are collected.* Because the payment would be made instead of the developer constructing transportation improvements in the vicinity, the funds should be dedicated solely to that purpose.
- *To the degree a development uses trip reduction to achieve its LATR requirement, then the net number of trips generated should be used to calculate the ARP payment.* For example, if a development that would normally generate 100 peak-period trips helps meet its LATR requirement through a trip reduction program that reduces 40 trips — in the development or elsewhere in the policy area — then the ARP payment would be based on 60 trips (\$525,000), not 100 trips (\$875,000). This would provide another incentive for MSPA and Germantown Town Center developments to meet their transportation adequacy requirements by trip reduction.

PHED Committee recommendation (2-1): Councilmembers Knapp and Floreen supports the Planning Board's recommendation, except that the geographic scope would be limited to sites within ½-mile of a bus or rail line that have at least 10-minute transit service in peak hours, as the Executive and ACT recommend. Councilmember Elrich does not support the Alternative Review Procedure.

Subsequent to the PHED Committee's worksession, Planning staff prepared a series of maps (©72-77) generally outlining the boundaries of the areas where transit service has at least a 10-minute headway—what are called Transit Priority Areas (TPAs). This first cut is meant to give the Council a general idea of the areas that would be eligible for the ARP. Should the Council approve the ARP for TPAs, the Planning staff will need to further refine these maps for the November 10 adoption resolution. Part of this refinement should take into account physical boundaries. For example, the TPA in Germantown extends to the east side of I-270 since, as the crow flies, this area is within ½-mile of a bus stop with at least a 10-minute headway. But in reality it is well beyond a ½-mile walk from such a stop.

The Board's proposal that 75% of the transportation impact taxes paid by developments using this ARP be dedicated for public transit improvements can only be implemented by amending the impact tax law. If this ARP is included in the Growth Policy, the Council will evaluate the Board's impact tax proposal when it reviews a bill amending that law. We understand that the Executive is drafting a bill to propose his recommendations on impact tax credits; we expect the bill to be advertised broadly enough to include this and other impact tax issues.

In the next two sections Council staff is raising issues that were not brought to the PHED Committee for discussion.

4. Relationship of LATR improvements to PAMR mitigation. During the discussions facilitated by Councilmember Berliner, some stakeholders advocated that intersection improvements required as a result of LATR should also be credited towards PAMR mitigation at the proposed value of \$11,000 per peak-period vehicle trip. Chairman Hanson has forwarded a letter to Councilmember Knapp supporting this provision, and suggests particular language (©78).

Council staff recommends approval of this provision. An intersection improvement needed to meet LATR—by definition an improvement that is needed to keep the intersection from exceeding that policy area’s LATR congestion standard—would improve its Relative Arterial Mobility, too.

5. “Counting years” for PAMR and LATR. During the discussion of PAMR, Councilmember Floreen addressed an inconsistency between the transportation tests and the schools test. In the school test, enrollment 5 years into the future—including enrollment from projected new development in that 5-year period—is compared to capacity programmed for completion within 5 years. However, for the transportation tests, traffic from existing development and the entire pipeline of approved-but-unbuilt development is compared to transportation capacity 4 years into the future. According to the Planning Board, the residential pipeline contains about 7 years’-worth of growth and the commercial pipeline includes about 14 years’-worth of growth. Therefore, traffic demand generated in the next 7-14 years is being compared to capacity to be in place in the next 4 years.

Councilmember Floreen suggested discounting the pipeline in the transportation test so there would be an “apples-to-apples” comparison, as in the school test. But the PHED Committee did not recommend discounting. For the school test development is a relatively minor factor in determining future enrollment—demographic changes are much more important—but this is not the case for transportation. If discounting were required, the Planning Board would have to make a judgment (i.e., guess) for each subdivision how much of it would be built out in the subsequent 4 years.

A change that would partially compensate for the discrepancy between the school and transportation test would be to change the number of years’-worth of capacity counted under PAMR and LATR. If the pipeline represents 7-14 years of growth, counting 10 years’-worth of programmed transportation capacity would be more of an “apples-to-apples” comparison. But transportation projects funded for construction in the Capital Improvements Program and the Maryland Department of Transportation’s Consolidated Transportation Program extend out only 6 years. It would be inappropriate to count projects funded only for planning or design, since their construction schedules are unknown.

Council staff recommends increasing the “counting years” under PAMR and LATR from 4 years to 6 years. This still does not fully address the inconsistency between the two sets of tests; the transportation tests would still be more conservative. Nevertheless this change would work in the right direction.

It does not appear that the current CIP and CTP have any major transportation improvements that will be completed in the next 6 years that are not already counted in the next 4 years, so this change

would not adjust any of the values in the PAMR chart nor add improvements that would be counted in LATR. However, the next CIP and CTP, extending out to FY16, may include some projects: the Georgia Avenue/Randolph Road interchange and Montrose Parkway East are examples, and perhaps some other new projects funded for construction for the first time.

IV. POLICY AREA BOUNDARIES (pp. 45-46 and Appendix H)

1. Gaithersburg, Rockville, and neighboring policy areas. The Gaithersburg and Rockville Policy Areas were created in the mid-1990s to segregate these municipalities from surrounding areas covered by the County's land use authority. Therefore, the boundaries of the Gaithersburg and Rockville Policy Areas periodically must be amended to have them conform more closely to changes in municipal boundaries. The Final Draft recommends such changes. Most are minor. The exception is the incorporation of the Crown Farm into the Gaithersburg City Policy Area; it has been part of the R&D Village Policy Area. Maps showing the proposed changes to the Rockville and Gaithersburg Policy Area boundaries are on ©79-80. **PHED Committee (and Council staff) recommendation (3-0): Change these boundaries as proposed.**

2. Twinbrook Metro Station Policy Area. When the Twinbrook Sector Plan was adopted last winter, the Council tentatively agreed that, when the Growth Policy was next reviewed, the Twinbrook MSPA boundary would be expanded to match the boundary of the Twinbrook Sector Plan. The expansion includes the so-called Northeast Parklawn Property. Anne Martin, representing Fishers Lane LLC, reminded the Council of this in her testimony (see ©81-86). Planning staff and Council staff concur with Ms. Martin. **PHED Committee (and Council staff) recommendation (3-0): Expand the policy area boundary to match the sector plan boundary.**

3. Germantown Town Center Policy Area. Similarly, the recently approved Germantown Employment Area Sector Plan recommended that, as part of the Growth Policy, the Germantown Town Center Policy Area should be expanded eastwardly to include the area generally bounded by I-270, MD 118, Aircraft Drive, and a tributary that flows west into Lake Churchill, as shown on ©87. **PHED Committee (and Council staff) recommendation (3-0): Make these changes to the boundary.**

4. White Flint Metro Station Policy Area. Much of the testimony at the Growth Policy public hearing was about issues that overlap between the White Flint Sector Plan and the Growth Policy, especially the implications of a proposal that would have the Sector Plan's staging replace any transportation tests in the Growth Policy. Such a carve-out is better addressed when the Council reviews the Sector Plan. Council staff suggests that a Growth Policy amendment should be adopted either simultaneously with, or shortly after, the Sector Plan's approval.

A separable issue, however, is what should be the boundary of the White Flint MSPA. There are currently 4 consequences of including an area in an MSPA:

- The intersections in an MSPA have a LATR standard of 1,800 CLV, which tolerates more congestion than in the surrounding policy area.
- The transportation impact tax rate is half that of the surrounding policy area.

- Street improvements are built to the “urban” standards under the Road Construction Code, generally requiring narrower lanes and more pedestrian-friendly design than in the surrounding policy area.
- In certain zones, certain developers must produce workforce housing.

Four years ago, in worksessions on the 2005-2007 Growth Policy, the Council tentatively approved expanding the policy area to nearly the same boundary now proposed. However, when the Council ultimately decided not to adopt that Growth Policy, the boundary remained the same.

In reviewing this issue now, Council staff discovered an error in the 2007-2009 Growth Policy resolution adopted 2 years ago. In preparing the policy area maps that were part of that resolution, the wrong boundary map for the White Flint MSPA was inserted. Map 32 of that resolution (©88) shows the MSPA including 5 traffic zones (TZs), but the Council in 2007 never discussed expanding the area, which had previously consisted of only TZs 136 and 137. Because it is specified in a Council-approved resolution, however, the official boundary now includes TZs 123 (Mid-Pike Plaza, plus properties on Maple Avenue and along the north end of Nebel Street), 125 (White Flint Mall and White Flint Plaza), and 127 (properties in the block roughly bounded by Rockville Pike, Edson Lane, Woodglen Drive, and Security Lane). Needless to say, all staffs contributing to this oversight express regret for this error. Fortunately, there have been no negative consequences. No subdivisions in TZs 123, 125, or 127 have been reviewed in the past 2 years, and no impact taxes have been paid in any of these TZs during this period.

Therefore, in reviewing this policy area, the Council should focus its attention on 2 options: either return the official boundary to only old TZs 136 and 137, or expand it to the Sector Plan boundary. The Sector Plan boundary includes not only the old TZs 123, 125, and 127 from the 2007-2009 Growth Policy, but also some property further south and east and a fragment in the northwest corner (©89).

Federal Realty Investment Trust, the Holladay Corporation, and ACT recommend expanding the boundary to match the Sector Plan boundary. The Garrett Park Estates-White Flint Park Citizens’ Association and the Coalition for Kensington Communities oppose its expansion. The opponents point to the fact that the LATR standard for the Rockville Pike intersections at Security Lane and Edson Lane would be raised from 1,550 CLV to 1,800 CLV, meaning that every intersection on the Pike between the Beltway and the Rockville City boundary would have an 1,800 CLV standard.

The maps on ©90-98 show the boundaries for the other 9 MSPAs, with overlays showing the ¼-mile and ½-mile distances from their respective Metro Stations. Scanning these maps, it is clear that while the other MSPAs include substantial land between ¼-mile and ½-mile of the station, with several MSPAs having some land even beyond ½ mile, a White Flint MSPA consisting only of old TZs 136 and 137 is much smaller (©99). Expanding the boundary to that of the Sector Plan would make it consistent with the others (©100).

PHED Committee (and Council staff) recommendation (2-1): Councilmembers Knapp and Floreen concur with the Planning Board to conform the MSPA boundary to the White Flint Sector Plan boundary. Councilmember Elrich recommends not considering a boundary change until after the Council reviews the White Flint Sector Plan.

5. A unified Germantown Policy Area? Council staff requested Planning staff to examine the effect of combining the Germantown East and Germantown West Policy Areas into a single Germantown Policy Area. The two areas share the same general travel shed and have the same LATR standards, but the PAMR results could not be more different: under all the scenarios above Germantown West has no PAMR mitigation requirement, but in nearly all scenarios Germantown East requires 100% mitigation.

As might be expected, under each scenario tested, combining the two into one policy area produces a middle-ground result. The mitigation required in a unified Germantown Policy Area would be 30%, regardless of whether the Council ultimately selects Option 6 Modified (recommended by Councilmembers Knapp and Floreen), Option 5 (recommended by Councilmember Elrich), Option 6 (recommended by Council staff, Chairman Hanson, and Planning staff), or Option 3 (recommended in the Final Draft).

The Germantown Town Center would remain its own policy area. Under the current rules, Germantown Town Center has the same mitigation requirement as Germantown West; that is, none (now). With a unified Germantown Policy Area, the Town Center would have the unified area's requirement, which would be 30%. However, the ARP would be available. *Council staff recommends creating a unified Germantown Policy Area.*

PHED Committee recommendation (3-0): Do not create a unified Germantown Policy Area; leave the Germantown East and Germantown West Policy Areas as they are.

6. Life Science Center Policy Area. The Planning Board is recommending carving out the LSC Central, LSC West, and LSC Belward portions of the Gaithersburg West Master Plan area from the existing R&D Village Policy Area (©101). This new policy area would be similar to the Germantown Town Center Policy Area, with an LATR standard of 1,600 CLV—more tolerant of congestion than the R&D Village's 1,450 CLV standard.

Council staff believes it would be premature to establish a Life Science Center Policy Area with a 1,600 CLV standard as part of the 2009-2011 Growth Policy. This might be considered once the Corridor Cities Transitway (CCT) is within the Growth Policy horizon for "counting" transportation projects, but not now. No other new policy areas around future transitway stations on the Purple Line or CCT are proposed as part of the Growth Policy. The Germantown Town Center Policy Area has a 1,600 CLV standard, but that is due to the presence of a transitway-type express bus service between it and the Shady Grove Metro Station, operating at a very high frequency during peak periods.

The PHED Committee is taking up this issue at its October 26 worksession on the Gaithersburg West Master Plan. Its recommendation will be reported at the Council's Growth Policy worksession.

V. ADJUSTING TRIP GENERATION RATES IN MSPAs (pp. 43-45)

The Planning Board would reflect in its *LATR/PAMR Guidelines* that residential vehicle trip generation rates in MSPAs be set about 18% lower — 4.6 trips/day rather than 5.6 trips/day — based on the results of a comprehensive study conducted in 2007-8 by the Council of Governments. The Executive generally supports the Board's recommendations, but adds that the new approach should use graduated trip generation rates based on actual distance to the Metro Station in the MSPA.

It is laudable that the Board is sharing this information with the Council, but it does not have to get the Council's permission to make this change. The *LATR/PAMR Guidelines* spell out a myriad of technical data that Planning staff needs to conduct traffic studies consistently from one development to the next, from trip generation rates (for all types of developments in all types of areas) to how CLV and other capacity analyses must be conducted. The guidelines are updated frequently to reflect the state of the practice.

PHED Committee recommendation (3-0): Concur that this information should go into the *LATR/PAMR Guidelines*, not the Growth Policy resolution.

VI. TRANSFER OF TRIPS

This transfer proposal is similar to the Planning Board's transfer proposal for the School Test. Under the latter, dormant subdivisions could transfer (sell) their unlikely-to-be-used school capacity (measured in students generated) to other potential developments in the same cluster. The PHED Committee and Council staff do not recommend that proposal, primarily because it would likely add students to a cluster which is already overcrowded.

The Board's proposal to transfer transportation capacity (measured in peak-hour trips) is different because it would be limited to those policy areas that contain MSPAs: Silver Spring/Takoma Park, Kensington/Wheaton, North Bethesda, and Derwood. The transfer would only be allowed from the "parent" policy area to an MSPA within it, providing another stimulus for MSPA development while not increasing total vehicle trips.

The Executive has some concerns about the administration of this transfer provision, but overall he opines that the proposal is worth exploring and refining (see top of ©4). ACT supports transferability, noting that "it would alleviate somewhat the damage caused by PAMR lumping together areas near and far from Metro" (©35). MCCF opposes transfers, arguing that adequate public facilities approvals should not be treated as commodities. Furthermore, MCCF notes that the required LATR intersection improvements for the 'receiving' subdivision would be very different than the required improvements for the 'sending' subdivision (©28).

PHED Committee (and Council staff) recommendation (3-0): Do not allow transfers of transportation capacity.

VII. HOSPITALS

Holy Cross Hospital testified that “like a school, fire station, or other such facilities serving basic needs of County residents, hospitals should not be subjected to the rigors of growth policy testing.” It requests that hospitals be exempt from the Growth Policy’s transportation tests (©102-104). Adventist Health Care, which is competing with Holy Cross for state approval to build a hospital in the Upcounty, argues that an exemption now would be unfair, since Adventist’s proposal for a Clarksburg Community Hospital has already met its APF transportation requirements (©105-107).

The arguments are strong on both sides. Although hospitals are private institutions, they provide a critical public service, arguably more critical than many public buildings which are exempt from adequate public facility requirements. The County already recognizes hospitals’ importance to a degree by not charging an impact tax on their construction or expansion. Nevertheless, other worthy private institutions are not exempt: social service non-profit organizations, private schools (which help mitigate public school overcapacity), health clinics, etc. And even if hospitals warrant an exemption, allowing an exemption now would give a direct advantage to Holy Cross in its competition with Adventist. The County is remaining neutral in this matter.

PHED Committee (and Council staff) recommendation (3-0): Do not exempt hospitals from the APF transportation tests as part of this Growth Policy. The issue might be re-evaluated more comprehensively in the future, considering other critical private land uses as well.

VIII. SCOPE AND FREQUENCY OF THE GROWTH POLICY

A large proportion of the testimony at the Growth Policy public hearing reacted to proposals in the White Flint Sector Plan. The Planning Board’s Alternative Review Procedure for PAMR would allow more congestion to achieve higher energy efficiency and affordable housing. Mr. Elmendorf and others suggest a quadrennial review of the Growth Policy. These points raise 2 fundamental questions: What should be the scope of the Growth Policy? How often should it be revised?

Since the Growth Policy was created in 1986, we have seen much public confusion as to its purpose. Part of this stems from the global reach that its name projects. Members of the public often testify or write to the Council about the Growth Policy, confusing its purpose with what master plans do, what zoning does, what economic development efforts do, what impact taxes do (or don’t do), what affordable housing programs do, etc. The broad purpose clause in the Growth Policy law contributes to this confusion. §33A-15(a) states:

- (1) The purpose of this article is to establish a process by which the County Council can give policy guidance to agencies of government and the public on matters concerning:
 - (A) land use development;
 - (B) growth management; and
 - (C) related environmental, economic, and social issues.
- (2) The policy guidance will be provided through the adoption by the County Council of a growth policy, which is intended to be an instrument that facilitates and coordinates the use of the powers of government to limit or encourage growth and development in a manner that best enhances the general health, welfare, and safety of the residents of the county.

However, since 1986 the Growth Policy has served a single purpose: to set the policy rules for the administration of the Subdivision law's adequate public facilities tests; in other words, the staging of subdivision approvals so that development would likely not occur before adequate schools, roads and transit, and other public facilities (water and sewer, police, fire, and health) are in place. *Council staff recommends amending §33A-15 so that the law addresses subdivision staging exclusively, and that the policy be re-named the "Subdivision Staging Policy."* This is a boring name to be sure, but that is exactly what it is, and that is all it is.

We also recommend changing the schedule of the Subdivision Staging Policy so that it is regularly updated every 4 years. We believe this should occur in the fall of the second year of a Council term, i.e., fall 2012, 2016, etc. The results of Policy Area Transportation Review and the Schools Adequacy Test would continue to be calculated annually to reflect changes in demand and capital improvements programs. The Council's authority to adopt off-cycle amendments for specific purposes would remain. Moving to a quadrennial cycle would let each Council make its substantial mark on how subdivision staging is managed. This schedule also would save considerable Planning staff time that would be more productively assigned to master plans and other special studies.

A bill has been drafted, and is scheduled to be introduced on November 3 that would incorporate Council staff's recommendations about the Growth Policy's name, scope, and schedule.

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OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

September 15, 2009

To: Phil Andrews, Council President

From: Isiah Leggett, County Executive

Subject: 2009 Growth Policy

I am writing to transmit my comments on the Planning Board Draft 2009 Growth Policy pursuant to the requirements of Montgomery County Code section 33A-15(d). A key concern that I raised two years ago is that the test for transportation capacity, "Policy Area Mobility Review" or "PAMR" is fundamentally flawed. Despite Planning Board review of PAMR, they did not recommend an alternative to PAMR.

I do not think that the version of the Growth Policy proposed by the Planning Board addresses the fundamental flaws of the test. I have therefore directed the Department of Transportation to come up with an alternative test for Policy Area Review. The basic elements of the new policy should include: simplicity to understand and monitor; close balance between the acceptable levels of congestion in an Approved Sector or Master Plan area, the levels of development approved and the remaining transportation infrastructure to be programmed, operated and built in the Plan; ensuring that transportation assumptions such as modal share in a given planning area are being met; and mechanisms to ensure the continued economic development of the County without jeopardizing the quality of life of our residents. The current economic slowdown, when there is little growth, and consequently little application of the growth policy, will allow us the opportunity to develop in a systematic and clear way a rational approach to testing transportation capacity. I intend to submit the alternative to the County Council and the Montgomery County Planning Board for review as an amendment to the 2009 Growth Policy.

Montgomery County needs a Growth Policy that results in achieving balance in the timing of private development and public infrastructure to avoid failure of or transportation system, overburdening of schools or economic stagnation through moratoria. The importance of a sound Growth Policy is even more compelling with the recent action of the Council removing staging from the Germantown Employment Center Sector Plan. If staging of development is not to be included in Master Plans, then the role of the Growth Policy remains a key mechanism to ensure that there will be adequate public facilities to support new development.

The proposed 2009 Growth Policy includes assumptions and directions that I believe could significantly impair the quality of life in Montgomery County. While I agree that focus needs to be on mass transit, I think it is untenable to intentionally impose congestion upon the residents and businesses of Montgomery County with the expectation that the strain of congestion will force people out of their vehicles. It would be a mistake to accept a level of service ("LOS") E for our arterial roads.

It is well established that increased congestion directly results in increased emission rates for NOx and VOCs which negatively affects air quality in the region. It would be ill-advised to intentionally create a situation that will result in increased pollution levels with the hope that discomfort will force some of the approximately 85% of commuters that drive to switch to transit, or that the trading of transportation improvements payments for affordable housing near Metro will result in fewer trips.

To facilitate Council review of the comments of the Executive Branch, the comments are set out below and correspond to the table of changes provide in the draft 2009 Growth Policy.

Smart Growth Criteria: Transit Proximity

The proposed 2009 Growth Policy pays homage to important policy matters such as increasing the production of affordable housing and reducing carbon footprints. However, as required by Montgomery County Code section 33A-15(b) the document must provide policy guidelines for the Planning Board and other agencies for their administration of Section 50-35(k) and other laws and regulations which affect growth and development. Thus, the policy must have as a key focus the adequacy of public facilities to handle the output of growth. The public is not likely to be patient with a shift in focus if congestion on our roads and overcrowding in our schools is overlooked in favor of these other objectives.

However, housing and sustainability issues must not be overlooked. These issues should be dealt with directly through appropriate regulatory and legislative mechanisms so that these objectives can be more widely achieved. The Growth Policy should continue to be our primary tool for insuring that we have adequate public facilities.

The Planning Board has recommended that projects that meet certain Smart Growth Criteria allow redistribution of payments for transportation improvements. The draft Policy provides for portions of transportation payments to be dedicated to transit improvements, affordable housing, and retained by the developer as an incentive to locate near transit. Dedication of funds in this manner restricts the policy choices and options of elected officials before all of the eligible and competing uses can be identified and evaluated as to their merits and disadvantages. It also raises questions as to the nexus of the required payment. In these trying budgetary times we should not be imposing such restrictions. Affordable housing is an important objective, but the County is pursuing this objective on a number of fronts and I believe that transportation resources should be retained for transportation needs. Development can be directed to transit areas through other incentives such as density bonuses.

As proposed, the Smart Growth Criteria could allow Alternative PAMR Review for projects outside of Metro Station Policy Areas. The draft Growth Policy includes a definition of "high-quality transit corridor" which does not meet the standard typically used in urban areas. This should be corrected to reflect the definition provided in the Transit Capacity and Quality of Service Manual which requires intervals of ten minutes or less for at least six buses per hour and offer service at least 18 hours per day.

APFO Transportation: Balance Between Land Use and Transportation

The draft Growth Policy is a significant and troubling departure from the 2007 Growth Policy which dictates that arterial level of service should not drop below LOS D. The draft Policy allows relative arterial mobility of LOS E where the relative transit mobility is LOS B. This recommendation moves lines on charts to conclude that greater levels of congestion are acceptable, when in fact they are not. With a focus on sustainability, the congestion resulting from LOS E would lead to greater air pollution due to increased NOx and VOCs resulting from increased commute times attributable to congestion.

I continue to think it was a mistake to eliminate Policy Area Transportation Review in 2003. Policy Area Review is a key tool to realize balance between actual development and infrastructure necessary to support the development. Without such review the balance envisioned in our Master Plans is both elusive and illusive. The 2007 Growth Policy introduced PAMR as a test for mobility. However, as a model, it was redefined for Growth Policy purposes. A significant problem with PAMR is that it provides results that do not accurately reflect transportation reality. It is difficult to understand and is not transparent to County residents or businesses. We need an approach that is understandable, that will yield results that truly model the impact of proposed development on our transportation system, and that reflects actual transportation policies of the County. We need an alternative to PAMR. The Planning Board in its review of PAMR did not propose an alternative approach. I therefore have directed the Department of Transportation to hire a consultant who will work to develop a workable alternative to PAMR. Through that effort, which will include outreach to Planning Board and Council staffs, specific stakeholders and the general public, I expect we will have a series of policy discussions that should lead to a more transparent and easily understood Policy Area Review.

APFO Transportation: Non-auto Facility Values

I support the Planning Board's recommendation to set the fees for trip mitigation at \$11,000 per trip. This standardizes the cost of trip mitigation and is a fairer standard that will provide for more equity for mitigation among development projects. This will also allow resources to be directed to concrete transportation improvements that are based on area transportation needs rather than the lowest cost improvements, and as noted by the Planning Board will improve predictability for applicants and the County.

APFO Transportation: APF Transferability

The Planning Board's recommendation that would allow vested APF rights to be transferred into a Metro Station Policy Area from an adjacent Policy Area may have promise; however I do have concerns about it. The draft 2009 Growth Policy is unclear as to whether this transfer can occur between Policy Areas or within the same Policy Area. I believe that any transfer must occur within the same Policy Area. This may encourage the APF pipeline to be cleaned out and perhaps encourage projects close to transit, thus encouraging greater utilization of existing transportation capacity. For areas that may be in, or approaching moratorium, this could provide a release valve while cleaning out older projects. A downside of this though is that the value that could be created in unviable projects could diminish the capacity of a newly proposed project to absorb other costs associated with development impacts or policies. I also am concerned that these transfers may be difficult to effectively validate and administer. However, I think this recommendation is worth exploring and refining.

APFO Transportation: TOD Trip Generation Rates

I support the Planning Board's recommendation that trip generation rates be updated to reflect more recent research, particularly for transit oriented development. This will allow our transportation analysis to be more accurate and should demonstrate that development near transit has less impact on congestion than in other areas. I urge caution however, that in view of changing the geographic area of the MSPAs, the new approach should use graduated trip generation rates based on actual distances from a development to the Metro Station itself (i.e. ¼ mi., ½ mi., farther than ½ mi.).

APFO Transportation: White Flint APF Approval Process

It is premature to change the White Flint APF approval process before the Council has acted on the White Flint Sector Plan. The mechanism(s) for the funding of improvements in White Flint has yet to be determined. This is a determination that should not be part of the master plan or the Growth Policy. The funding tools may be determined in connection with the master plan process, but should not be included in the plan itself. Public infrastructure, even though paid for via some form of development district funding or special assessment, must still be included in the CIP. Therefore, the Growth Policy can continue to look to the CIP in determining the adequacy of public facilities. While the transportation improvements recommended in the Sector Plan may meet the requirements for mitigating transportation needs at the Policy Area level, development projects could still cause localized congestion issues. These issues should be identified through LATR and requirements should be placed on projects to mitigate this congestion. Failure to implement LATR tests could result in very high levels of congestion on Major Arterials that serve not only the specific MSPA but also serve large volumes of thru traffic to fulfill other economic and quality of life objectives in the County.

APFO Other: Policy Area Boundary Changes

The Planning Board has recommended the creation of new Policy Areas and changes to the boundaries of Policy Areas based on recommendations in several Master Plans that will be reviewed over the next several months. This decision should be made in the review

of the appropriate Master Plans. Once the Master Plans are adopted, the Policy Area boundaries can be amended by resolution just as SMAs are made for zoning changes recommended in Master Plans.

APFO for Schools: School Facility Payment Threshold

The Planning Board has recommended that the school facility payment threshold be raised from 105% of projected program capacity to 110% at any school level by cluster. At this point, no school facility payments have been collected. We anticipate that this will have limited impact on revenue collections; however, this change seems unnecessary and could reduce future revenue collections which will help alleviate school over-crowding if the economy rebounds.

APFO for Schools: Moratorium Threshold

The current threshold for a moratorium on residential subdivision is 120% of projected program capacity at any school level by cluster. I agree that this threshold level should be retained, but would recommend that Student Yield Factors be reevaluated and updated to determine if student projections should be refined for different areas, markets and types of units.

APFO for Schools: Grandfather Completed APFO Applications

The economy appears to have caused movement of some students from private schools into public schools. Such a swing may well be temporary. It is important to make adjustments for temporary circumstances particularly given the hardship that such a temporary shift poses on pending development applications and the economy. I therefore support the Planning Board's recommendation that applications for development that have been completed 12 months prior to the imposition of a moratorium on residential subdivision be grandfathered. Development of a project plan application is a significant investment. This change would allow projects that had a completed application to move forward through the review process. This allows for more certainty when artificial blips occur from presumably temporary changes in the economy and unanticipated demographic changes.

APFO for Schools: APF Transferability

Similar to the APF transfer recommended for transportation, the Planning Board has recommended transferability of vested APF rights for school capacity. This would allow school capacity tied up on projects that may not move forward to be used by more viable projects in the same cluster. As with transportation capacity transfer, I think the proposal has merit, but I have some concerns about the administration of this process and that we are creating value in unviable projects. If this policy is pursued consideration should be limited to transfer of approvals within the same school cluster.

Issues Carried Forward from the 2007 Growth Policy

There were several issues carried forward from the 2007 Growth Policy that the Council asked to be reviewed.

F4 Investigation into the Use of Carbon Offsets

Carbon offsets would not mitigate auto trips in terms of congestion. Based on recent history, carbon emissions will be reduced more by technological changes in automobiles and trucks. Congestion on the other hand, will increase regardless of emissions. The resulting traffic delays, irritability, irrational driver behavior, accidents and quality of life would still be negatively affected. Allowing carbon offsets in lieu of traffic mitigation does not address APFO requirements.

F5 Dedicated Transit Revenue

PAMR mitigation fees should be dedicated to transportation improvements and not necessarily dedicated to transit improvements so we have the flexibility to put resources where there is the greatest need and where they would be most effective.

F9 Impact Tax Issues

The County Council directed that the County Executive, with the aid of the Planning Board and the Board of Education, address impact tax issues noted in the long-term infrastructure financing recommendations in the Planning 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 or charging "linkage" fees to non-residential development for affordable housing. The Council also asked that the Executive and the interagency group review credits granted under the impact tax and develop recommendations to retain, modify, or repeal credit provisions in the law.

In response to item F9, and following coordination and meetings with Planning Board staff and MCPS staff, it was generally agreed that under current economic conditions linkage fees for affordable housing and impact taxes for additional public facilities would not be advisable. These are items that can be revisited in the future when economic conditions have significantly improved.

As a result of our review of transportation impact fee credits and the process around these credits, I am recommending changes to Chapter 52 of the County Code which I have attached to this Memorandum. My staff has discussed these proposed changes with both civic and development industry representatives.

One noteworthy suggestion that I am *not* making is for the County to issue tax credits for improvements to state roads. Other than for transit or trip reduction programs, credits for improvements to state roads are currently precluded in the law, and should remain that way. Impact tax rates are determined by a complicated process estimating the costs to build-out County roads. If State roads are eligible for credits, the rate schedule would have to be revised and the tax rate would be considerably higher. Executive staff is available to prepare draft

Phil Andrews, Council President
September 15, 2009
Page 7 of 7

legislation reflecting my recommendations for changes to transportation impact fees for Council consideration.

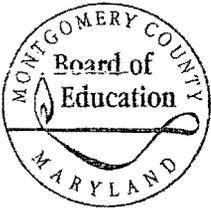
Conclusion

I commend the Planning Board for addressing important development issues and concerns in its draft of the 2009 Growth Policy. All of the issues raised in the draft 2009 Growth Policy are critically important to Montgomery County. The fact that I question the forum for addressing these issues does not mean that they do not need to be addressed. My overriding concern is that by using the Growth Policy instead of other available tools for addressing some of these development concerns we will have the consequence of unabated gridlock with the accompanying degradation of the environment and quality of life in Montgomery County. The Growth Policy should be chiefly used to address adequacy of public facilities while we continue to work through other important policy issues.

DSJ:jw

Attachment: Suggested Revisions to County Code – Chapter 52

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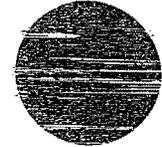
MONTGOMERY COUNTY BOARD OF EDUCATION

850 Hungerford Drive ♦ Rockville, Maryland 20850

September 8, 2009

The Honorable Phil Andrews, President
Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

051150



Dear Mr. Andrews:

On August 27, 2009, the Montgomery County Board of Education reviewed the Montgomery County Planning Board (Planning Board) draft 2009 County Growth Policy, including the school adequacy test. The enclosed resolutions provide the Board of Education's official comments on the Planning Board recommendations for the school test. We hope you will carefully consider this input during your review and action on the growth policy this fall.

The current growth policy school test has placed three Montgomery County Public Schools (MCPS) clusters in moratorium for FY 2010. These clusters are Bethesda-Chevy Chase, Clarksburg, and Seneca Valley. As the FY 2011-2016 Capital Improvement Program (CIP) is developed this fall, capital projects that will take these clusters out of moratorium will be an important consideration. Keeping MCPS clusters out of moratorium at a time of large enrollment increases will require significant capital investments. In order to address space deficits that are placing MCPS clusters in moratorium, the school system will need the County Council's support in funding the upcoming CIP request.

The Board of Education believes this is an opportune time to plan and construct capital projects. The recession has eased school construction costs as builders seek work. In addition, the bond market has favorable interest rates at this time. Once the economy recovers, we can expect a return to higher construction costs. Inflationary pressures also will result in higher costs for borrowing in the bond market. Consequently, we urge the County Council to seize the opportunity presented at this time by significantly raising the Spending Affordability Guidelines this fall and by supporting our CIP request later this year.

Sincerely,

Shirley Brandman
President

SB:vnb
Enclosure
Copy to:
Members of the Board of Education
Dr. Weast
Mr. Bowers
Dr. Lacey
Mr. Crispell
Mr. Lavorgna

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Office of the Superintendent of Schools
MONTGOMERY COUNTY PUBLIC SCHOOLS
Rockville, Maryland

August, 27, 2009

MEMORANDUM

To: Members of the Board of Education

From: Jerry D. Weast, Superintendent of Schools 

Subject: 2009 County Growth Policy Review

Background

On August 1, 2009, the Montgomery County Planning Board (Planning Board) transmitted to the County Council a draft 2009 County Growth Policy. The County Growth Policy is a biennial policy and is, therefore, reviewed every two years. For this reason, the policy is no longer called the "annual growth policy" or "AGP." The county executive and the Board of Education are required to comment on the Planning Board-recommended growth policy by October 1, 2009.

This memorandum includes a review of the Planning Board recommendations for the school test portion of the growth policy and proposed resolutions for Board of Education consideration. The County Council will review the growth policy this fall and is scheduled to act on the policy on November 10, 2009.

The current growth policy was adopted by the County Council on November 13, 2007. At that time, the County Council significantly tightened the school test by switching to the use of Montgomery County Public Schools' (MCPS) program capacity, instead of the previous use of "growth policy" capacity. The County Council also set lower thresholds for triggering school facility payments and moratoria than existed previously. In addition, in adopting the 2007 County Growth Policy, the County Council significantly increased charges for the school facility payment.

Although the County Growth Policy is a biennial document, the school test that it includes is conducted annually. Currently, the FY 2010 school test is in effect using guidelines adopted by the County Council in the 2007 County Growth Policy. Concern has been expressed over the school test results this year, wherein three MCPS clusters have been placed in moratorium (Bethesda-Chevy Chase, Clarksburg, and Seneca Valley clusters). Efforts being made to lift the moratoria by amending the FY 2009-2014 Capital Improvements Program (CIP) have ceased, and it appears the moratoria will remain in effect for FY 2010. A new school test will be conducted after the FY 2011-2016 CIP is approved by the County Council in May for FY 2011.

Montgomery County Planning Board Recommendations

The Planning Board recommended maintaining most of the existing provisions of the school test. A few new provisions have been added to provide some flexibility to developers facing moratoria. The following is a brief summary of the Planning Board recommendations. Recommendations that are new or are changed from the current test are underlined. (See Attachment A for a more detailed description of school test elements.) The Planning Board-recommended school test would take effect with the FY 2011 test.

School Test

- Continue with the current five-year timeframe for the school test.
- Continue with the testing of school adequacy at the cluster level—for elementary school, middle school, and high school adequacy.
- Continue use of MCPS program capacity in the school test.
- Set the following two-tiered thresholds in the school test:
 - In clusters in which projected enrollment is above 110 percent of program capacity, require a school facilities payment to be paid before development approvals are made. This is an increase from the current 105 percent threshold for the school facility payment. Attachment B shows how this provision would affect the school test had it been in effect for the FY 2010 test.
 - In clusters in which projected enrollment is above 120 percent of program capacity, place the area in a residential development moratorium. This is the same as the current threshold for moratorium.
- Provide a new “grandfathering” mechanism in the school test. This would allow subdivisions that have been filed and completed (in terms of Planning Board staff reviews) within the 12-month period prior to a cluster going into moratorium, to obtain Planning Board approval.
- Provide developers with the ability to trade subdivision approvals. This would apply in an area in moratorium in which an older plan has received approval previously, but the developer is not ready to move forward. This developer could then trade his approval to a developer who is halted in the moratorium. The trading would be controlled so that the number of students generated by the new subdivision could not exceed the number that would have been generated by the existing approved subdivision.
- Continue with the current provision to calculate school impacts of subdivision approvals during the year, sometimes referred to as “metering.” This provision has Planning Board staff calculating the number of students generated from new subdivision approvals and adding these to the school test figures. If a cluster is close to one of the two thresholds when the test is adopted on July 1, then at some point during the year it may begin exceeding that threshold if additional subdivisions are approved. The approval would then trigger the need to start charging the school facility payment or placement of the cluster in moratorium.
- Continue with the *de minimis* exemption for subdivisions of three or fewer housing units.

School Facility Payment Calculation

- Although the Planning Board recommended raising the threshold for charging the school facility payment from the 105 percent to 110 percent utilization level, the Planning Board continues to support the current approach to calculate this payment. School facilities payment figures are based on a calculation of the current per-student cost to construct (or modernize) elementary schools, middle schools, and high schools. Developers desiring subdivision approval in a cluster exceeding 110 percent utilization must make the school facility payment for the school level(s) that are over this threshold. Under the current approach, school facility payments made by developers are targeted to capacity projects in the cluster in which the payment is required. Affordable housing is exempt from the school facility payment. The school facility payment is based on 60 percent of the cost of school construction for each student generated by a new subdivision. Attachment C shows how the school facility payment is calculated.

Superintendent Recommendations

School Test

I recommend the Board of Education support the recommendations of the Planning Board concerning the school test. I am especially pleased that the Planning Board continues to support the use of MCPS program capacity in the school test.

In regard to the school test thresholds, I believe that increasing the threshold for the school facility payment from 105 percent to 110 percent utilization is consistent with my 2007 recommendation. In reviewing clusters that exceed 105 percent utilization, cases can be found where space deficits at schools in a cluster that is over 105 percent utilization are not sufficient to require that additional capacity be requested. Use of a 110 percent threshold would more accurately identify clusters in which school capacity projects are needed. When the 2007 growth policy was being developed, the Planning Board recommended the 110 percent threshold for the school facility payment, and the Board of Education supported it at that time. The County Council reduced this threshold to 105 percent when it took action on the current growth policy on November 13, 2007.

In regard to the threshold for moratorium, I support the Planning Board recommendation to maintain the current 120 percent threshold. In 2007, the Planning Board recommended, and the Board of Education supported, a threshold of 135 percent for moratorium. The 135 percent threshold was selected by the Planning Board since it was comparable to the threshold for moratorium that was set when the school test used "growth policy" capacity. However, when the County Council took action on the current growth policy on November 13, 2007, it reduced this threshold to 120 percent. During discussion of the threshold for moratorium, County Council members expressed the view that previous school test methodologies were too lax since no cluster had ever "failed the test" and been placed in moratorium. The County Council believed the school test should be tighter and, when necessary, result in moratoria.

In supporting the 135 percent threshold for moratorium during the 2007 review of the growth policy, I believed that this threshold would allow the county to collect more revenue. This would be the case since there would be a high threshold before moratorium was enacted, and up to that point the school facility payment would be collected when clusters exceeded the 110 percent utilization level. Although I continue to believe there is merit to this argument, evidence has shown that revenues attributed to the school facility payment have been extremely modest. In addition, the recent experience of the three clusters currently in moratorium demonstrates the power of this condition in leveraging capital funds to address space shortages. I now believe that the 120 percent threshold is a better way to achieve our objective of providing adequate school capacity for our students. Therefore, I recommend the Board of Education support the 120 percent threshold for a moratorium.

I recommend the Board of Education support the "grandfathering" of subdivisions that have completed applications within one year of a cluster going into moratorium. This provision adds flexibility for developers who would otherwise be stuck in moratorium after expending significant time and funds in the review process. I believe this is a reasonable concession when seen in conjunction with the relatively tight threshold for a moratorium at 120 percent.

I recommend the Board of Education support the ongoing monitoring of subdivision approvals during the year so that the school test can be continually updated. This provision allows the school test to initiate either school facility payments or a moratorium, as more units are approved during the year. I also recommend the Board of Education support the *de minimis* provision of three housing units. This provision is a reasonable way to exempt very small subdivisions that have minimal impact on school enrollments.

I recommend the Board of Education support the school facility payment—with one caveat. I do not support continuing the reservation of the school facility payment revenue to the cluster in which it is collected. I believe the school system needs the flexibility to apply these funds more broadly. In addition, the very small amount of revenue collected in a given cluster is insufficient to construct a capacity project.

Finally, I recommend the Board of Education oppose the "trading" of subdivision approvals in a cluster that is in moratorium. This provision has been recommended by the Planning Board because of the large pipeline of approved subdivisions. The current pipeline has approximately 30,000 approved units. However, many of these approved subdivision plans are quite old and developers may have no intention of proceeding in the foreseeable future. The trading approach supposes that developers with old plan approvals would be interested in trading them for more viable projects that are halted by a moratorium. I believe this provision would further exacerbate space deficits in affected clusters by allowing subdivisions to get under way in overutilized clusters.

The following resolution is provided for the Board's consideration:

WHEREAS, A comprehensive review of the County Growth Policy has been conducted over the past several months and this review has included consideration of alternative approaches to the role of the growth policy as it pertains to schools; and

WHEREAS, The Montgomery County Planning Board's recommended 2009 County Growth Policy school test continues to incorporate the use of the Montgomery County Public Schools' program capacity as the appropriate measure of school adequacy that aligns with Montgomery County Public Schools facility planning and capital programming; and

WHEREAS, The Montgomery County Planning Board's recommended 2009 County Growth Policy school test establishes a school facilities payment in cases in which cluster school utilizations exceed 110 percent and creates a residential moratorium where cluster school utilizations exceed 120 percent; now therefore be it

Resolved, That the Board of Education supports the Planning Board recommendations for the Growth Policy school test, including the use of Montgomery County Public Schools' program capacity as the basis for calculations used for imposition of the school facilities payment (when cluster facility utilization exceeds 110 percent) and imposition of a moratorium (when cluster facility utilization exceeds 120 percent); and be it further

Resolved, That the Board of Education supports the Planning Board recommendations for calculation of the school facilities payment; and be it further

Resolved, That the Board of Education requests the County Council place the school facility payment revenue in the general fund and not in separate funds that apply to the cluster in which it is collected; and be it further

Resolved, That the Board of Education supports the Planning Board recommendation for "grandfathering" completed subdivision applications for one year prior to a cluster going into moratorium; and be it further

Resolved, That the Board of Education supports the Planning Board recommendation for a *de minimis* exemption from the school test of three or fewer housing units; and be it further

Resolved, That the Board of Education opposes the Planning Board recommendation for the trading of subdivision approvals in clusters that are in moratorium; and be it further

Resolved, That a copy of this resolution be forwarded to the County Council, the county executive, and the Planning Board; and be it further

Resolved, That a copy of this resolution be forwarded to mayors and councils of Montgomery County municipalities.

Resolved, That a copy of this resolution be forwarded to mayors and councils of Montgomery County municipalities.

~~Present at the Board table for today's discussion~~ are Mr. Bruce Crispell, director, Division of Long-range Planning, and Mr. Joseph Lavorgna, acting director, Department of Facilities Management.

IDW:LAB:JIL:jlc

Attachments

BCC Cluster ES Solution -- No. (TBD)

Category	Montgomery County Public Schools	Date Last Modified	October 2, 2009
Subcategory	Individual Schools	Required Adequate Public Facility	Yes
Administering Agency	MCPS	Relocation Impact	None
Planning Area	Bethesda-Chevy Chase	Status	

EXPENDITURE SCHEDULE (\$000)

Cost Element	Total	Thru FY08	6 Yr. Total	FY09	FY10	FY11	FY12	FY13	FY14	Beyond 6 Years
Planning, Design, and Supervision	1,416	0	1,348	0	0	0	719	365	264	68
Land	0	0	0	0	0	0	0	0	0	0
Site Improvements and Utilities	2,014	0	2,014	0	0	0	0	1,828	186	0
Construction	10,423	0	8,518	0	0	0	0	2,393	6,125	1,905
Other	737	0	350	0	0	0	0	0	350	387
Total	14,590	0	12,230	0	0	0	719	4,586	6,925	2,360

FUNDING SCHEDULE (\$000)

G.O. Bonds	14,590	0	12,230	0	0	0	719	4,586	6,925	2,360
Total	14,590	0	12,230	0	0	0	719	4,586	6,925	2,360

DESCRIPTION

Due to increasing enrollment growth, this project includes funds to design and construct 20 permanent elementary school classrooms in the Bethesda-Chevy Chase high school cluster. These additional classrooms would meet capacity requirements under the Growth Policy, ending a residential moratorium in the B-CC cluster. The County Council anticipates that ultimately the Board of Education will request one or more specific projects that will add these classrooms by the start of the 2014-2015 school year, and that these funds would be used for that purpose.

CAPACITY

Teaching Stations Added: 20

APPROPRIATION AND EXPENDITURE DATA	COORDINATION	MAP
Date First Appropriation FY	Mandatory Referral - M-NCPPC	
First Cost Estimate	Department of Environmental Protection	
Current Scope FY10 14,590	Protection	
Last FY's Cost Estimate 0	Building Permits:	
	Code Review	
Appropriation Request FY09 0	Fire Marshal	
Appropriation Request Est. FY10 0	Department of Transportation	
Supplemental Appropriation Request 0	Inspections	See Map on Next Page
Transfer 0	Sediment Control	
	Stormwater Management	
Cumulative Appropriation 0	WSSC Permits	
Expenditures/Encumbrances 0		
Unencumbered Balance 0		
Partial Closeout Thru FY06 0		
New Partial Closeout FY07 0		
Total Partial Closeout 0		

Clarksburg Cluster MS Solution -- No. (TBD)

Category	Montgomery County Public Schools	Date Last Modified	October 2, 2009
Subcategory	Individual Schools	Required Adequate Public Facility	Yes
Administering Agency	MCPS	Relocation Impact	None
Planning Area	Clarksburg	Status	

EXPENDITURE SCHEDULE (\$000)

Cost Element	Total	Thru FY08	6 Yr. Total	FY09	FY10	FY11	FY12	FY13	FY14	Beyond 6 Years
Planning, Design, and Supervision	420	0	420	0	0	0	315	84	21	0
Land	0	0	0	0	0	0	0	0	0	0
Site Improvements and Utilities	678	0	678	0	0	0	0	678	0	0
Construction	3,018	0	2,716	0	0	0	0	905	1,811	302
Other	97	0	142	0	0	0	0	0	142	142
Total	4,400	0	3,956	0	0	0	315	1,667	1,974	444

FUNDING SCHEDULE (\$000)

G.O. Bonds	4,400	0	3,956	0	0	0	315	1,667	1,974	444
Total	4,400	0	3,956	0	0	0	315	1,667	1,974	444

DESCRIPTION

Due to increasing enrollment growth, this project includes funds to design and construct ten permanent middle school classrooms in the Clarksburg high school cluster. These additional classrooms would meet capacity requirements under the Growth Policy, ending a residential moratorium in the Clarksburg cluster. The County Council anticipates that ultimately the Board of Education will request one or more specific projects that will add these classrooms by the start of the 2014-2015 school year, and that these funds would be used for that purpose.

CAPACITY

Teaching Stations Added: 10

APPROPRIATION AND EXPENDITURE DATA	COORDINATION	MAP
Date First Appropriation	Mandatory Referral - M-NCPPC Department of Environmental Protection Protection Building Permits: Code Review Fire Marshal Department of Transportation Inspections Sediment Control Stormwater Management WSSC Permits	See Map on Next Page
First Cost Estimate		
Current Scope		
Last FY's Cost Estimate		
Appropriation Request		
Appropriation Request Est.		
Supplemental Appropriation Request		
Transfer		
Cumulative Appropriation		
Expenditures/Encumbrances		
Unencumbered Balance		
Partial Closeout Thru		
New Partial Closeout		
Total Partial Closeout		

Northwest Cluster ES Solution -- No. (TBD)

Category	Montgomery County Public Schools	Date Last Modified	October 2, 2009
Subcategory	Individual Schools	Required Adequate Public Facility	Yes
Administering Agency	MCPS	Relocation Impact	None
Planning Area	Germantown	Status	

EXPENDITURE SCHEDULE (\$000)

Cost Element	Total	Thru FY08	6 Yr. Total	FY09	FY10	FY11	FY12	FY13	FY14	Beyond 6 Years
Planning, Design, and Supervision	932	0	932	0	0	0	466	280	186	0
Land	0	0	0	0	0	0	0	0	0	0
Site Improvements and Utilities	1,307	0	1,307	0	0	0	0	1,046	261	0
Construction	8,486	0	4,243	0	0	0	0	1,697	2,546	4,243
Other	375	0	75	0	0	0	0	0	75	300
Total	11,100	0	6,557	0	0	0	466	3,023	3,068	4,543

FUNDING SCHEDULE (\$000)

G.O. Bonds	11,100	0	6,557	0	0	0	466	3,023	3,068	4,543
Total	11,100	0	6,557	0	0	0	466	3,023	3,068	4,543

DESCRIPTION

Due to increasing enrollment growth, this project includes funds to design and construct eight permanent elementary school classrooms in the Northwest high school cluster. These additional classrooms would meet capacity requirements under the Growth Policy, ending a residential moratorium in the Northwest cluster. The County Council anticipates that ultimately the Board of Education will request one or more specific projects that will add these classrooms by the start of the 2014-2015 school year, and that these funds would be used for that purpose.

CAPACITY

Teaching Stations Added: 8

APPROPRIATION AND EXPENDITURE DATA	COORDINATION	MAP																																																			
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>Date First Appropriation</td> <td style="text-align: center;">FY</td> <td></td> </tr> <tr> <td>First Cost Estimate</td> <td></td> <td></td> </tr> <tr> <td>Current Scope</td> <td style="text-align: center;">FY10</td> <td style="text-align: right;">11,100</td> </tr> <tr> <td>Last FY's Cost Estimate</td> <td></td> <td style="text-align: right;">0</td> </tr> <tr> <td colspan="3"> </td> </tr> <tr> <td>Appropriation Request</td> <td style="text-align: center;">FY09</td> <td style="text-align: right;">0</td> </tr> <tr> <td>Appropriation Request Est.</td> <td style="text-align: center;">FY10</td> <td style="text-align: right;">0</td> </tr> <tr> <td>Supplemental Appropriation Request</td> <td></td> <td style="text-align: right;">0</td> </tr> <tr> <td>Transfer</td> <td></td> <td style="text-align: right;">0</td> </tr> <tr> <td colspan="3"> </td> </tr> <tr> <td>Cumulative Appropriation</td> <td></td> <td style="text-align: right;">0</td> </tr> <tr> <td>Expenditures/Encumbrances</td> <td></td> <td style="text-align: right;">0</td> </tr> <tr> <td>Unencumbered Balance</td> <td></td> <td style="text-align: right;">0</td> </tr> <tr> <td colspan="3"> </td> </tr> <tr> <td>Partial Closeout Thru</td> <td style="text-align: center;">FY06</td> <td style="text-align: right;">0</td> </tr> <tr> <td>New Partial Closeout</td> <td style="text-align: center;">FY07</td> <td style="text-align: right;">0</td> </tr> <tr> <td>Total Partial Closeout</td> <td></td> <td style="text-align: right;">0</td> </tr> </table>	Date First Appropriation	FY		First Cost Estimate			Current Scope	FY10	11,100	Last FY's Cost Estimate		0				Appropriation Request	FY09	0	Appropriation Request Est.	FY10	0	Supplemental Appropriation Request		0	Transfer		0				Cumulative Appropriation		0	Expenditures/Encumbrances		0	Unencumbered Balance		0				Partial Closeout Thru	FY06	0	New Partial Closeout	FY07	0	Total Partial Closeout		0	<p>Mandatory Referral - M-NCPPC Department of Environmental Protection Protection Building Permits: Code Review Fire Marshal Department of Transportation Inspections Sediment Control Stormwater Management WSSC Permits</p>	<p>See Map on Next Page</p>
Date First Appropriation	FY																																																				
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Current Scope	FY10	11,100																																																			
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Partial Closeout Thru	FY06	0																																																			
New Partial Closeout	FY07	0																																																			
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Seneca Valley Cluster ES Solution -- No. (TBD)

Category	Montgomery County Public Schools	Date Last Modified	October 2, 2009
Subcategory	Individual Schools	Required Adequate Public Facility	Yes
Administering Agency	MCPS	Relocation Impact	None
Planning Area	Germantown	Status	

EXPENDITURE SCHEDULE (\$000)

Cost Element	Total	Thru FY08	6 Yr. Total	FY09	FY10	FY11	FY12	FY13	FY14	Beyond 6 Years
Planning, Design, and Supervision	231	0	219	0	0	0	0	173	46	11
Land	0	0	0	0	0	0	0	0	0	0
Site Improvements and Utilities	186	0	186	0	0	0	0	0	186	0
Construction	1,287	0	644	0	0	0	0	0	644	643
Other	97	0	0	0	0	0	0	0	0	97
Total	1,800	0	1,049	0	0	0	0	173	876	751

FUNDING SCHEDULE (\$000)

G.O. Bonds	1,800	0	1,049	0	0	0	0	173	876	751
Total	1,800	0	1,049	0	0	0	0	173	876	751

DESCRIPTION

Due to increasing enrollment growth, this project includes funds to design and construct four permanent elementary school classrooms in the Seneca Valley high school cluster. These additional classrooms would meet capacity requirements under the Growth Policy, ending a residential moratorium in the Seneca Valley cluster. The County Council anticipates that ultimately the Board of Education will request one or more specific projects that will add these classrooms by the start of the 2014-2015 school year, and that these funds would be used for that purpose.

CAPACITY

Teaching Stations Added: 4

APPROPRIATION AND EXPENDITURE DATA	COORDINATION	MAP
Date First Appropriation	Mandatory Referral - M-NCPPC Department of Environmental Protection Protection Building Permits: Code Review Fire Marshal Department of Transportation Inspections Sediment Control Stormwater Management WSSC Permits	See Map on Next Page
First Cost Estimate		
Current Scope		
Last FY's Cost Estimate		
Appropriation Request		
Appropriation Request Est.		
Supplemental Appropriation Request		
Transfer		
Cumulative Appropriation		
Expenditures/Encumbrances		
Unencumbered Balance		
Partial Closeout Thru		
New Partial Closeout		
Total Partial Closeout		

Scope of Work

Support to MCDOT for a Review of Options for the Annual Growth Policy

A. Understanding of the Objectives of the Project:

The Montgomery County Executive and the Department of Transportation (MCDOT) want to explore practical options that could become part of or substitute for parts of the Annual Growth Policy Process, particularly the Policy Area Mobility Review (PAMR). There is a concern that such transportation related options need to be more transparent and understandable to the officials, affected stakeholders, residents and businesses of the County than those of the current process. Such options also need to result in a more effective process that can be used by the elected officials to balance various desirable, and many times seemingly competing, objectives while resulting in more sustainable growth, development, and quality of life in the County as part of the greater region. This work will be directed to assist MCDOT and the Executive in formulating recommendations that the Executive will want to propose to the Council as a possible amendment of the Annual Growth Policy. The reshaped Growth Policy will focus on:

1. Reflecting the actual, observed or measured congestion conditions on the ground
2. Identifying and measuring impacts of proposed new development upon the congestion
3. Identifying capital improvements and/or operating programs that may alleviate congestion
4. Measuring or forecasting impacts of such improvements and programs upon congestion
5. Assuming at this point, an allocation-based approach rather than regulatory or TDM ones

B. Overview of the Proposed Scope of Work:

In the first phase of the work the basic outlines of such options need to be defined, preliminarily assessed, reviewed, and refined first internally with MCDOT and with the Executive. Later in Phase 1 the initial refined options will be generally vetted with selected representative stakeholders and advisors against a set of criteria to be established. This will enable the County Executive to have an appropriate amount of information to specify with more detail the range of options that could be cooperatively analyzed during the subsequent second phase. After that a decision will be made by MCDOT whether and how to proceed to Phase 2 of the work in which it is expected that a more detailed analysis and evaluation will be carried out using more specificity of the options.

The carrying out of the more detailed analysis and evaluation in Phase 2 will require the collaborative and cooperative use of resources of the Transportation Planning staff of the Montgomery County Planning Board in order have them apply their analytical tools with the characteristics and assumptions of the options being specified by the staff of MCDOT. Such similar cooperative analyses have been conducted twice in the recent past. Upon completion of that, the work would enter Phase 3, in which recommendations will be formulated for the review and consideration of the Executive. It is expected that the Executive would then make a recommendation to the Council for a specific set of amendments to the AGP. The following describes these generally sequential activities in more detail.

Phase 1: Determination of the Basic Outline of the Range of Options:

1. **Define Range of Options:** The Contractor will work with the staff of MCDOT to define a range of basic options that would likely result in more practical, understandable, and effective approaches for use in the Annual Growth Policy process. It is expected that such options will be focused on those related to the purposes of PAMR, although ones related to the purposes of the Local Area Transportation Review (LATR) may also be considered. In defining these options several distinguishing features will be considered, such as the following.
 - a. Distinction needs to be made between: (1) “analytic factors” and approaches, as contrasted to various (2) “administrative factors” or policy approaches. The first type of factors tend to be able to be more rigorously and quantitatively analyzed, while the second types of factor tend only to be qualitatively defined and considered at best.
 - b. A focus is also expected to be given to options that can be observed as well as analyzed for future conditions, and particularly those that may rely on the use of operational data from the roadway, transit, or non-motorized transportation systems as well as surveyed data such as recent work done for the regional Transportation Planning Board.
 - c. Another set of likely distinctions that can be used in defining such options is whether they are mainly oriented to regulatory, planning, improvement programming, or allocation approaches. In making such distinctions the issue of scale or size of the growth relative to the scale and size of improvements can be very important.
 - d. The relationship of transit service, particularly bus services on arterials that share the road with general traffic, will probably warrant more attention in defining the options.
 - e. The “matched-issues” of: (a) variations in travel behavior and decreased reliability based on system disruptions due to a wide variety of causes, versus (b) the ability to take an active or integrated traffic-transit management approach for an arterial, corridor, or network may also be part of the defining of the options.
 - f. In addition, the ability to carry out performance-based planning and programming is becoming more feasible due to changing technology that may enable more emphasis being placed on such direct measures of transportation system performance in the administration of the Annual Growth Policy.
2. **Initially Assess the Options:** The contractor will work with MCDOT staff to first identify and agree upon a range of factors such as simplicity or understandability that can be used to assess the initial options. The contractor preliminarily will assess the initial range of defined options against those factors and then refine the options as appropriate. It may be necessary to include some data collection activities or prototype analysis to find ways to better assess some of the initially defined options.
3. **Refine Options for Workability:** For an option to have some basic feasibility for further consideration it also needs to be one that can be: (a) measured or observed for current conditions, (b) forecast for future situations, as well as (c) has a relationship to the management of growth and/or impacts on the transportation system. It needs to be one that the staffs can “work with” in an appropriate and meaningful way – have a sufficient degree of “workability”. The contractor will work with MCDOT staff to further refine the options so as to address and meet such workability concerns.
4. **Technical Memorandum:** A Technical Memorandum will be written summarizing the initially defined options and how and generally why they were refined. Part of this task will be to initially consider appropriate approaches to widen the review to a more external set of concerned and representative selected stakeholders as well as some speculation as to the

likely impact or success the various options would have in being acceptable alternatives for the AGP.

5. **County Executive Review of the Initial Options for Consideration:** It will be important for this project to have a process to brief the Executive from time-to-time and keep him advised on the progress of the work as well as to give him opportunity to provide direction to the work. This Task would provide the first such opportunity to preliminarily share with the Executive the refined options for their general reasonableness and approach relative to the project objectives. This can be done concurrently with the carrying out of the next Task of this Phase. It is recognized that at this point in the project the Executive may choose to informally or formally publicly share and discuss the specifics of the likely range of options that are tentatively to be given consideration and analyzed during Phase 2 of the project. However, in doing so he may also want to remind the listeners that a vetting process is underway to sharpen the options for understandability and likely effectiveness and that subsequently he will perhaps be making a tighter selection from among the range of options to determine the specific set to then be analyzed and evaluated.
6. **Limited Stakeholder Review of the Options:** The contractor will begin to work with MCDOT staff to meet with a selected and limited cross section of stakeholders to test approaches to discuss the refined options for items such as their clarity, understandability, and their connectivity to the growth management issues of concern and sharpen our ability to listen for their true concerns. A clear understanding is needed on our part as to what particular aspects of the AGP methodology or measurement systems seem to be less understandable. Gaining that understanding will help in the specification of alternative options that can perhaps be designed to avoid or lessen such perceived shortcomings. However, on the other hand it is possible that some of the expressions of difficulty that have been heard in being able to understand the methods may perhaps be a form of “shooting the messenger”. It is possible that if: (a) a stakeholder does not like the outcome result of the prior AGP analysis, (b) cannot explicitly say that for a variety of reasons, and (c) it is easier and acceptable to cast aspersions on the analysis method itself, then we need to know that too because then what ever approaches the Executive may eventually recommend could be subject to this same sort of process, criticism, and claims of not being understandable. This task may also help clarify the set of factors that were used to initially assess the options in Task 1.2.
7. **Conduct a more Detailed Stakeholder Review of the Understandability of the Options:** MCDOT staff will specify a larger group of selected external stakeholders and help organize a series of small group or individual meetings. In the meetings the contractor will review the range of refined options so that the stakeholders can discuss them relative to particular concerns that they may have, especially relative to the current transportation parts of the Annual Growth Policy process. At issue is whether such options would likely address the general concerns of the various stakeholders. It is important to point out and understand in defining this Task that at this point in the project the relative merits of one approach versus another in producing a particular result should not be germane and that will not be the focus of the discussion. Rather the focus will be on the relative understandability and similar characteristics of the options independent of what outcome they may eventually produce. We will also need to review the degree of understandability of the options with respect to their ability to monitor current conditions. It is recognized that this overall approach may be a difficult one for the stakeholders to deal with, particularly in a larger-group setting, and that

is why individual or small group meetings are a preferred technique to use. Again the issue we need to understand is whether the analysis option is truly clear or not, and to do so irrespective of what outcome it does or does not produce.

8. **Prepare another Technical Memorandum on the Stakeholder Review and Anticipation of Analysis Considerations:** This second technical memorandum will summarize the general findings of this external stakeholder review and the need to further refine the options. In addition, it is essential that sufficient consideration also be given to the question as to whether a particular option has been defined such that it is very likely that there will be reasonable means of analyzing the option. Some focused discussion may be needed at this time with the Planning staff of MNCPPC to clarify such analysis considerations.
9. **Specify and Review Final Options for Consideration:** At the conclusion of the two prior tasks the contractor will work with MCDOT staff to again brief the Executive on the results of the stakeholder reviews and to present perhaps a narrowed down list of options that could be evaluated in Phase 2. That review will need to be structured in a way such that the Executive can easily share his thoughts in a public fashion at this juncture in the project with respect to a final set of options that he thinks should be analyzed during Phase 2.
10. **Refine Phase 2 and 3 Tasks and Level of Effort Estimates:** When MCDOT staff and Executive is satisfied with the final set of refined options, then the contractor will review the estimate of the level of effort, schedule, and budget that is currently provided below that will be needed to have the options analyzed and evaluated in Phase 2 and proposed in Phase 3. In doing that review it is likely that the contractor will need to meet with Transportation Planning staff of the Planning Board, which can also include the participation of staff from MCDOT. The contractor will then refine the following draft Phase 2 and Phase 3 work scope, schedule, and budget for the review and approval of MCDOT.

Phase 2: Analysis and Evaluation of the Options Using the AGP Tools:

1. **Seek Agreement on the Analysis and Evaluation Methodologies:** The more detailed analysis and evaluation will require the cooperation and use of resources of the Transportation Planning staff of the Montgomery County Planning Board. It is anticipated that they would use their analytical tools with the characteristics of the options being specified by the staff of MCDOT, with the analysis and evaluation of the results being initially done by the Contractor. Such similar cooperative and collaborative analyses have been conducted twice in the recent past, first for the "MAP" Project of MCDPWT and then for the "Go Montgomery" Project.
2. **Conduct Collaborative Analysis of the Annual Growth Policy Options:** The contractor will work in conjunction with the Planning Board staff to test the specified AGP Options using the agreed to analysis methodology. The contractor will review and discuss various interim testing results with MCDOT staff and determine whether subsequent rounds of testing are required. Advice and participation from the Planning staff may also be sought. It is recognized that the level, amount, and timing of subsequent testing will in part be determined by how much cooperation and resources Planning Board staff will be able to provide and schedule in order to accomplish the testing given their budget and work program considerations and constraints. MCDOT staff will review the interim results and may choose to have the partial results reviewed and commented on by various selected stakeholders. There may also be informal status briefings for the Executive on the progress of the work,

including any problems that may have been encountered, solutions to them, or ones that are still outstanding and needing resolution.

3. **Evaluation of the Options on the AGP Results:** The contractor, working along with the MCDOT staff will prepare an evaluation of the options that includes an assessment of anticipated degree of understandability of the results as well as the effectiveness of the alternative in achieving and/or maintaining the objectives of the AGP and of the Adequate Public Facilities Ordinance (APFO). That evaluation needs to start being formatted and summarized such that it could become a core component of a packet that would be included as part of the recommended approach of the County Executive.
4. **Formulate Recommendation of Alternatives for the AGP:** The contractor working with MCDOT staff will then formulate an initial set of recommendations or strategies for consideration of the Executive. That consideration may take place through a series of meetings depending upon the schedule and availability of the Executive.
5. **Final Documentation of Materials-Approach:** The contractor will document the Phase 2 work. This documentation will be used to describe the recommended annual growth policy methodology and how the methodology applies to various examples.

Phase 3: County Executive Proposal to the County Council:

1. **Assist in the Formulation of Final Recommendations:** The contractor, again working along with the MCDOT staff will then formulate a final set of recommendations or strategies for consideration of the Executive. Again, that consideration may take place through a series of meetings depending upon the schedule and availability of the Executive.
2. **Assist with Presentation Material:** The contractor will prepare material and be available to attend meetings to present all or components of the recommended methodology, approach, or results at various meetings at the request of MCDOT.
3. **Provide Ongoing Support:** The contractor will be available to provide on-going support to work further on this project to assist the MCDOT staff or the Executive in presenting the recommended approach to various audiences or in reviewing comments received on the recommended approach, within the budget limits made available to carry out this scope of work.



DEPARTMENT OF TRANSPORTATION

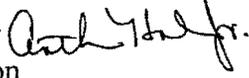
Isiah Leggett
County Executive

Arthur Holmes, Jr.
Director

MEMORANDUM

October 19, 2009

TO: Michael J. Knapp, Chair
Planning, Housing, and Economic Development Committee

FROM: Arthur Holmes, Jr., Director 
Department of Transportation

SUBJECT: 2009 Growth Policy

The purpose of this memorandum is to respond to the PHED committee's informal request for more input from the County Executive on alternatives to Policy Area Mobility Review (PAMR). As you know, the County Executive has significant concerns about the accuracy and usefulness of PAMR and believes it should be replaced by a more meaningful test of transportation capacity. Mr. Leggett had hoped that the proposed 2009 Growth Policy would contain an improved test for transportation capacity that would address some of the concerns that were discussed during the 2007 Growth Policy deliberations. However, the current draft did not address the concerns that were discussed when the Growth Policy was last taken up. Therefore, the County Executive has directed the Department of Transportation (MCDOT) to develop an alternative transportation test to measure transportation capacity. This work is in progress. The breadth and complexity of Growth Policy issues, and the critical need for modeling of test criteria and for stakeholder involvement throughout the process, render it imprudent to develop a replacement for PAMR in the short time the Council has available for deliberation on the Growth Policy. In the spirit of moving the ball forward, I will outline in this memorandum, a framework for a new Transportation Test to replace PAMR.

It is clear that PAMR, while better than no policy area review, has many shortcomings. There is strong sentiment to do away with it all together. Tinkering around the edges of PAMR is a high risk strategy which may leave the County with *no mechanism* to balance congestion levels and new development on a policy area basis. (Local Area Transportation Review alone is not sufficient, and will simply result in unacceptable levels of congestion.) The 2009 PAMR recommended by the Planning Board moves even further away from the critical need to balance congestion with development by shifting the mitigation focus to transportation demand management and away from the provision of infrastructure. The County Executive strongly supports transportation demand management. However, transportation demand management is only one element of a comprehensive program to address demand infrastructure capacity, and efficient multimodal operations.

Office of the Director

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The County Executive has identified core concepts for a new Transportation Test that should address, at least, the following:

- Be simple to understand and monitor;
- Balance congestion levels with approved development and needed transportation infrastructure;
- Ensure that key transportation assumptions that formed the basis for the approval of new development (such as modal split) are met;
- Include mechanisms to ensure the continued economic development of Montgomery County without jeopardizing the quality of life for County residents.

Building upon these core concepts, the framework for a new Transportation Test could include the following features:

1. Policy Areas have a finite number of jobs and housing units at buildout, based on adopted master plans;
2. Estimate the unbuilt transportation infrastructure costs for buildout of each policy area - including roads, transit, bikeways, sidewalks, etc., and an appropriate share in a given planning area of major regional projects such as the Corridor Cities Transitway, Purple Line, and the InterCounty Connector;
3. Estimate the remaining development for a policy area in terms of residential and commercial development, and the total number of new trips expected to be generated;
4. Determine the cost per trip generated by the planned development;
5. Prorate the cost of infrastructure to support new development by policy area based on the number of trips generated;
6. Establish an appropriate Developer/County split of transportation infrastructure costs;
7. Private and public transportation infrastructure costs be paid and/or available over a six-year period and reflected in applicable CIP projects;

8. Extend the time when projects are counted for capacity for a six year period, consistent with the County's CIP and the Maryland Department of Transportation Consolidated Transportation Program (CTP);
9. Monitor the modal split by policy area assumed in the approved master plan;
10. Explore performance monitoring of the multimodal transportation system in relation to the master plan targets;
11. Develop a mechanism to permit economic development projects to advance;
12. Reassess the infrastructure cost estimates every two years;
13. Establish that this framework will be the basis for a more detailed evaluation and refinement including the involvement of stakeholders in the civic, business and legal arenas;
14. Set a target of no later than March 31, 2009 to come back to transmit a Transportation Test to the Council.

Under this framework, PAMR would remain in place until a new Transportation Test is approved by the County Council. If a new Transportation Test is not approved, PAMR would remain in place until the next Growth Policy Review.

Shifting the Growth Policy back toward such a capacity-based system, including transportation demand management, allows the Growth Policy to continue to fulfill its mission of matching the pace of development with the provision of infrastructure. Recent and ongoing Sector Plans such as Twinbrook, White Flint, Germantown Employment Corridor, and Gaithersburg West, increased the County's focus on sustainable residential and economic development near transit, with accompanying large increases in the levels of development permitted in these areas. A new Transportation Test based on the framework outlined above, will complement these plans by making sure that transportation infrastructure and service provides a high quality of life to County residents, in concert with the increases in density. In addition, the new test will strengthen ties between the CIP, CTP and the Growth Policy, and provide a workable alternative to PAMR.

AH:tt

Approved by vote of MCCF delegate assembly--Sept. 14, 2009

**2009 GROWTH POLICY POSITION OF THE MONTGOMERY COUNTY
CIVIC FEDERATION--SUBMITTED TO COUNTY COUNCIL ON 9/22/09**

The MCCF position on the 2009-2011 Growth Policy is presented here in two parts. The first section contains the MCCF position on the 11 recommendations in the Planning Board Draft Growth Policy, approved by the Board on July 16. The second section contains the 12 changes to the Growth Policy that the Civic Federation is suggesting the County Council consider and adopt.

The Civic Federation sees the Growth Policy and master plans as two tools to be used in concert to guide the future development of the county. Master plans set forth the type of development that is allowed and its location. Under county law, the Growth Policy is used to implement the Adequate Public Facilities Ordinance by pacing the rate of growth to allow proposed development to proceed only in areas where supportive infrastructure can accommodate it. We believe these tools--master plans and the Growth Policy--should be used to facilitate growth only when and if it is in the public interest and will not harm residents' quality of life or the natural environment of the county.

I. PLANNING BOARD RECOMMENDED CHANGES TO THE GROWTH POLICY

The MCCF believes the Growth Policy should not assume the role of other policy mechanisms. For example, strengthening of affordable housing initiatives should properly be done through the legislative mechanism, not the Growth Policy. Similarly, we do not believe the Growth Policy is an appropriate tool to encourage greener buildings or to reduce our carbon footprint, as these policy issues are properly addressed through regulation, master planning, and zoning standards.

We oppose several of the Planning Board recommendations as they would weaken existing processes designed to prevent worsening traffic congestion (PB Numbers 1, 2, 5, 6 and 7). And we are concerned several Board recommendations would decrease the amount of revenue received by the county from development to provide needed infrastructure (PB Numbers 1, 2, 3, 7 and 8).

Specific Planning Board Recommendations-

PB1. Alternative Review Procedures for projects near transit meeting Smart Growth Criteria

- For smart growth mixed-use projects meeting certain standards and located within 1/2 mile of major transit center or corridor, PAMR mitigation costs should be allocated as follows--50% directed to transit infrastructure, 25% applied to provision of additional MPDUs or workforce housing units above the amount required in the project, and 25% retained by the developer. In addition, 75% of transportation impact taxes should be dedicated for improving public transit.

MCCF urges disapproval. Since transit centers have above average transit service, any trip mitigation required in these areas results from inadequate road capacity. This proposal will not remedy that inadequacy but would instead allocate payments to transit projects, or to create more affordable housing which will generate more traffic. We find this inappropriate, as is allowing funds to be retained by the developer. Also, while there is a need for improved transit throughout the county we do not think it wise to restrict the use of transportation impact taxes by requiring 75% of such tax collected in transit centers be used for transit improvements.

PB2. Change to a Symmetrical PAMR Chart and allow Roads Level of Service (LOS) E in areas with Transit Mobility LOS of B. (In 2007, the Council did not allow Roads LOS below D.) This change would move the following areas from "requiring partial mitigation" to "acceptable with no mitigation": Bethesda/Chevy Chase; Derwood/Shady Grove; Olney; Kensington/Wheaton; and, Silver Spring/Takoma Park.

MCCF urges disapproval. By declaring that traveling on roads at 25% of free flow speed (LOS E) is acceptable, even in areas with above average transit level of service, we believe the Council would be setting the bar for "adequate" road level of service too low, and would be undermining the credibility and value of the county's Adequate Public Facilities Ordinance. In addition, slower road speeds would result in increased carbon footprint. (See MCCF Recommendations #4 and #5)

PB3. Expand types of non-auto facilities that can be provided to mitigate trips to include additional projects, update costing information on mitigation projects (increasing value of sidewalk/bike path connectivity projects), and set value of trip mitigation at \$11,000 per vehicle trip.

MCCF urges disapproval. MCCF believes the current PAMR process not only inappropriately merges tests for roads and transit adequacy, but merges the remedies if either is found lacking. If a remedy is required due to inadequate roads level of service, the improvement or payment-in-lieu should be used to improve arterial los, not for projects which it is hoped will increase transit usage but for which no demonstrable results have been shown. Similarly, where transit is found to be inadequate, required remedies should go to improve transit los. (See MCCF Recommendation #5)

PB4. Allow transfer of Adequate Public Facilities (APF) capacity to projects in Metro Station Policy Areas (MSPAs) from within the same policy area (allow developer with approved project they don't intend to build to sell their APF capacity to developer proposing project in a MSPA in the same policy area, which would extinguish the APF validity finding of the sending project and remove it from the pipeline--the two parties would have to agree on cost)

MCCF urges disapproval because we believe a finding of APF capacity is not a commodity that can be transferred. It is based on mobility analysis using PAMR, or some alternative, and also an LATR analysis which involves specific intersections. There is no way to transfer a finding of adequacy, involving one set of intersections, to a project at another location. In addition, we are not sure how APF capacity for one project, which might require mitigation or remedy under some growth policy test, could be transferred to another project years later when a different set of growth policy remedies to address road or transit inadequacy may be in place for the policy area.

PB5. Reduce residential trip generation rates in Metro Station Policy Areas by 18%, similar to Bethesda, Silver Spring and Friendship Heights generation levels listed in LATR.

MCCF urges disapproval because we believe the areas within which a lesser trip generation rate might be allowed should be defined by distance from a Metro station, and not on artificial MSPA boundaries which can be changed over time.

PB6. Replace LATR and PAMR in White Flint with implementation authority process, as recommended in the proposed Sector Plan revision for that area.

MCCF urges disapproval. Replacing professional traffic analysis with monitoring by an implementation authority abdicates the county's responsibility, lacks standards, and precludes an objective analysis. We also see this recommendation as a case of "putting the cart before the horse," since the Council will not begin consideration of the White Flint Sector Plan revision, which contains a recommendation for establishment of an implementation authority process, until after members vote on the Growth Policy. This Growth Policy recommendation should only be addressed when and if Council approves such an implementation authority in the context of adopting the White Flint Sector Plan revision.

PB7. Change Policy Area boundaries--establish Life Sciences Center Policy Area, and expand White Flint, Germantown Town Center and R&D Village policy area boundaries.

MCCF urges disapproval. Expanding policy area boundaries and raising the level of allowable traffic congestion is not the way to manage congestion. MSPA and other policy area boundaries should be defined by a more objective standard (i.e.; distance from the transit station), not gerrymandered to facilitate approval of development by allowing increased congestion levels.

PB8. Raise threshold for School Facilities Payment from 105% to 110% of projected cluster capacity

MCCF urges disapproval. By raising the School Facilities Payment threshold, fewer projects will be required to provide funds than are currently required, at a time when State funding for school construction is limited and the county government fiscal outlook is bleak.

PB9. Retain threshold for school moratorium on new residential approvals at 120% of cluster capacity

MCCF urges APPROVAL.

PB10. Allow residential preliminary plan applications for projects in areas in moratorium, which have been completed within 12 months prior to imposition of the moratorium, to proceed to the Planning Board for consideration.

MCCF urges disapproval. Allowing the Planning Board to approve the Preliminary Plan for any residential project located in an area for which a finding of inadequate school capacity has already been made would be a violation of the Adequate Public Facilities Ordinance, and likely not withstand judicial scrutiny.

PB11. Allow approved but unused school capacity for a specific development to be transferable to another development project in the same school cluster (similar to APF rights transfer above)

MCCF urges disapproval unless transfer is only allowed between projects in the same elementary school area, not cluster. (See MCCF Recommendation #10)

II. CIVIC FEDERATION RECOMMENDED CHANGES TO THE GROWTH POLICY

In addition to addressing the recommendations of the Planning Board in the preceding section, the Civic Federation offers the following additional suggestions for your consideration.

Separate the 2 Policy Area Mobility Review (PAMR) Tests

MCCF1. MCCF strongly recommends the current PAMR test be split in two. We believe the separation of the current PAMR test into two stand-alone tests, a Policy Area Roads Test and a Policy Area Transit Test, would be more useful and appropriate to the implementation of the Adequate Public Facilities Ordinance (APFO). The current PAMR test balances adequacy of roads level of service against adequacy of transit level of service within each county policy area. This implies that the adequacy of one of these public facilities somehow substitutes for the inadequacy of the other. Yet the APFO states the Planning Board must find an area's roads and transit facilities are adequate before approving the preliminary plan for a project in that area. It reads:

Sec. 50-35(k). Adequate Public Facilities. The Planning Board must not approve a preliminary plan of subdivision unless the Board finds that public facilities will be adequate to support and service the area of the proposed subdivision. Public facilities and services to be examined for adequacy include roads and public transportation facilities, sewerage and water services, schools, police stations, firehouses, and health clinics.

The Federation does not believe it is any more appropriate to assert that it is acceptable for an area to have inadequate roads level of service if it has more than adequate transit facilities than it would be to assert that an area could have inadequate sewerage facilities so long as it has more than adequate water service.

If the PAMR tests were separated, there would then be 3 primary growth policy tests (i.e.; for schools, roads and transit), in addition to Local Area Transportation Review. At present, if there is inadequate school capacity in an area where a developer wants to build, then they can still get Preliminary Plan approval by paying a School Facilities Payment in addition to the School Impact Tax. Similarly, under the MCCF recommendation, if there is inadequate road capacity, a developer could still get Preliminary Plan approval to build by paying a Road Facilities Payment in addition to the Transportation Impact Tax. Or if transit is found to be inadequate, they could proceed by paying a Transit Facilities Payment.

Improve Tests for Roads and Transit Level of Service

MCCF2. We believe the Council should make a commitment to change as soon as possible to use of the latest generation software to model traffic capacity for the Policy Area Roads Test (SYNCHRO, and SimTraffic and/or CORSIM). However, we understand that, due to time constraints, you may opt to employ existing PAMR arterial LOS data in the initial creation of a stand-alone roads test.

MCCF3. We believe the Council should make a commitment to improving the Policy Area Transit Test as soon as possible, for instance by comparing the time for point-to-point commute trips by transit to the time for the same point-to-point trips by car. However, we understand that, due to time constraints, you may opt to employ existing PAMR transit LOS data in the initial creation of a stand-alone transit test.

Stand-Alone Policy Area Roads Test

MCCF4. Whatever roads test is approved, MCCF recommends using the poorer level of service from either AM or PM weekday peak hours. The current PAMR arterial test looks at PM peak hours only, but the 2008 Highway Mobility Report showed 46% of the 81 failing intersections in the county failed in AM peak hours only (indicating inadequate level of service in AM on roads in these areas that is not reflected in the current PAMR analysis). MCCF believes a roads test should analyze weekend congestion levels, as well.

MCCF5. POLICY AREA ROADS TEST--recommendation using 2013 PAMR data

If actual speed is-

- | | | |
|----------------------------------|---|---|
| 85% free-flow speed or faster | A | (no policy areas) |
| 70 - 84% of free-flow speed | B | Damascus, Cloverly |
| 55 - 69% of free-flow speed | C | Rural West, Clarksburg, Germantown W, R&D Village, Rural East |
| 40 - 54% of free-flow speed | D | Montgomery Village/Airpark, North Potomac, Olney, Germantown E, Kensington/Wheaton, Silver Spring/Takoma Park, Aspen Hill, Rockville, Derwood, Bethesda-Chevy Chase, North Bethesda, Fairland/White Oak, Potomac, Gaithersburg City |
| 25 - 39% of free-flow speed | E | (no policy areas) |
| less than 25% of free-flow speed | F | (no policy areas) |

Road Facilities Payment is imposed equal to \$11,000 x [% of trips generated by a project]. For levels A or B no payment is imposed, for level C a payment is imposed on 10% of trips generated, for level D a payment is imposed on 25% of trips generated, for level E a payment is imposed on 50% of trips generated, and for level F a payment is imposed on 100% of trips generated by a project. Payments to be used for road improvements only.

MCCF6. In policy areas where a percentage remediation based on trips generated by a project is required, if a development is calculated to generate a lower number of trips than the countywide rate due to proximity to Metro station or transit center, the percentage should be applied to that lower number of trips. Current calculation used by Planning staff lowers or eliminates trips needing to be mitigated in Metro Station Policy Areas.

Stand-Alone Policy Area Transit Test

MCCF7. POLICY AREA TRANSIT TEST--recommendation using 2013 PAMR data

If transit commute time is-

70% of time by car or less	A	(no policy areas)
71 - 100% of time by car	B	(no policy areas)
101 - 130% of time by car	C	(no policy areas)
131 - 160% of time by car	D	Bethesda/Chevy Chase, Silver Spring/ Takoma Park, Kensington/Wheaton, Derwood, North Bethesda, Aspen Hill, Olnsey, Rural East, Potomac, Rockville
161 - 190% of time by car	E	Montgomery Village/Airpark, Cloverly, North Potomac, Germantown W, Fairland/White Oak, Rural West, Gaithersburg City, Germantown E, R&D Village
more than 190% of time by car	F	Clarksburg, Damascus

Transit Facilities Payment is imposed equal to \$11,000 x [% of the total of non-auto mode dwelling units and jobs in a project]. For levels A and B no payment is imposed, for level C a payment is imposed on 10% of non-auto mode dwelling units and jobs, for level D a payment is imposed on 25%, for level E a payment is imposed on 50%, and for level F a payment is imposed on 100% of non-auto mode dwelling units and jobs in a project. Payments to be used for transit improvements only.

Impact Taxes

MCCF8. Eliminate 50% reduction in impact tax rate for Metro Station Policy Areas (MSPAs) and repeal the separate Clarksburg impact tax district, and apply a single County-wide rate. In the May 2007 Staff Draft Growth Policy, planning staff recommended doing away with the 50% impact tax rate in MSPAs, stating that "our Metro Station Policy Areas have matured as development land has become more scarce, so that financial incentives to encourage redevelopment in MSPAs are of decreasing value to the county." [emphasis added] MCCF believes the additional new funds derived from collecting the countywide transportation impact tax rate from development projects in MSPAs could be put to good use, to fund projects that would improve roads level of service or to fund projects which would further improve transit service or increase capacity of the transit systems in these areas. In addition, we believe the imposition of an impact tax rate for Clarksburg which is higher than the County-wide rate is no longer needed.

School Facilities Payment and School Capacity

MCCF9. Retain imposition of School Facilities Payment when cluster exceeds 105% of capacity on middle or high school level, and retain cessation of new residential project Preliminary Plans when cluster exceeds 120% of capacity on middle or high school level.

MCCF10. Calculate capacity on individual school basis on elementary school level, and apply the same percentage limits for requiring School Facilities Payment and cessation of approvals as those applied on a cluster basis on the middle school and high school levels. This will prevent student enrollment from grossly exceeding capacity at any individual elementary school. This gross exceeding of capacity at an individual school can occur under the existing cluster capacity calculation if an elementary school is the primary receiver of new students generated by nearby development or redevelopment projects, while enrollment at other elementary schools in the cluster may be below capacity.

MCCF11. A School Facilities Payment received due to inadequate capacity of an individual elementary school, as recommended in MCCF10, should be used solely for increasing the classroom capacity of the affected elementary school.

CAPACITY CEILINGS

MCCF12. Reinstate capacity ceilings as part of growth policy. Set a maximum total number of dwelling units and jobs for each policy area which the Planning Board can approve in projects located there over the ensuing two years. If reinstated, capacity ceilings can be used to correct the jobs-housing imbalance within specific areas or in the county as a whole. Council staff has the in-depth knowledge on this issue to suggest an appropriate method for calculating and assigning capacity ceilings for each of the County's policy areas.

CONTACT:

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TESTIMONY ON ANNUAL GROWTH POLICY

September 22, 2009

We at the Action Committee for Transit read the Planning Board's report on growth policy with great interest. The first half of this report is an outstanding analysis of the transportation and land use issues the county faces. We face demographic and environmental challenges that cannot be met by continuing past planning practices.

As the Planning Board points out, the Adequate Public Facilities Ordinance needs changes to accommodate mixed-use transit-oriented development. But as we see it, the problem lies deeper than that. We believe the APFO rests on a flawed premise. It treats the symptom of the disease – crowded intersections – in a way that worsens the underlying cause – land use that forces people to drive too much. It's like treating the flu by taking a cold shower to bring down the fever.

One of the two transportation tests in the APFO, the regional test (PAMR), is widely acknowledged to be flawed. As this test measures transit accessibility, Brookeville and Potomac have better transit service than Rockville. All of Bethesda is given one average score, when the average of transit access between downtown Bethesda and Glen Echo tells you nothing at all about how easy it really is to get to either of them. More fundamentally, when the PAMR pushes development away from built-up areas, it winds up exacerbating congestion rather than preventing it.

The local test (LATR) has received less criticism, but in our view it is even more of a problem. The incentive created by this test is to move as many motor vehicles as possible through every intersection, regardless of negative effects on pedestrians, transit users, and nearby residents and businesses. The LATR is also a serious impediment to transit-oriented development (contrary to the assertion on p. 30 of the Planning Board report). The area around Glenmont Metro, which cries out to be rebuilt on a more human scale, has been under a de facto moratorium due to LATR, and LATR has also been an obstacle to transit-oriented growth at Friendship Heights.

The basic concept of the current APFO is first come, first served. Developers are at first allowed to dump as much traffic as they like onto the roads. When conditions in one place become intolerable, the rules suddenly change. Late-comers are required, at great expense, to undo the mistakes of those who came before them. Or they can, and many do, relocate to outer areas where they will be first in line, and are free to create new traffic problems.

This basic flaw needs to be fixed. As we told the Council two years ago, the PAMR and LATR should be replaced by tests that address the underlying disease of too much need to drive. We recommend a regional test that limits the vehicle miles traveled (VMT) from new developments (per housing unit or per job). The local test should restrict the number of motor vehicle trips generated from a development.

With one exception, the Planning Board recommendations fail to address the underlying flaw in the APFO. That exception is the recommendation for White Flint. We enthusiastically endorse the proposal to tie new development to the rebuilding of Rockville Pike as an urban boulevard that is an inviting destination for pedestrians and transit riders.

Our views on the specific Planning Board recommendations are as follows:

1. Alternative PAMR procedure – The criteria for eligibility for this procedure are too loose. A location with rush-hour-only bus service running in one direction does not have “high-quality transit.” High-quality transit is transit that enables one to live conveniently without a car. Either this procedure should be limited to Metrorail stations, or it should require two-way bus service 18 hours per day seven days a week, headways ten minutes or better in rush hour, twenty minutes mid-day, and half-hour evenings and weekends.

2. Allow LOS E on urban roadways – We support this change, but strongly disagree with the characterization that this change will make the treatment of road and transit access “symmetrical.” The PAMR is inherently asymmetrical because it allows development in places with no transit access, if the roads are uncongested, but does not allow development in places with excellent transit access, if the roads are too congested.

4. Transfer trips to Metro stations – We support this change. It would alleviate somewhat the damage caused by PAMR lumping together areas near and far from Metro.

5. Adjust trip generation rates – The trip generation rates used for LATR do not match reality, and the proposal falls far short of what is needed to fix them. An 18% reduction is proposed in trip generation rates for residences near most Metro stations (currently 0.41 am, 0.47 pm), with no change in the lower number (0.30) currently used for Bethesda, Friendship Heights, and Silver Spring. A recent report by the Transportation Research Board measured peak-hour¹ trip generation at apartment buildings near Grosvenor and Silver Spring Metros. At Grosvenor, the trip generation was 8% less than current LATR assumptions, and at Silver Spring it was 33% below the current number.²

The current trip generation rates were developed before the current popularity of urban living and are obsolete. Current rates for Silver Spring and Bethesda (and possibly Wheaton) should be reduced from 0.30 to 0.20 to reflect the new data from the TRB. The 18% reduction should be applied at Metro stations like Grosvenor that lack significant retail: Grosvenor, Forest Glen, and Glenmont. The remaining stations, where mixed use development exists or is planned, but falls short of matching the diversity and scale of Bethesda and Silver Spring, should get an intermediate number – the value of 0.30 might be kept for Friendship Heights and extended to the remaining stations.

6. White Flint – As stated above, we strongly support this recommendation.

1 Peak-hour trip generation is measured for the hour when the most trips entered or left the building. In a mixed-use area, the peak hour for residential trips will generally not coincide with the peak hour of congestion, which will be dominated by workplace trips. Thus, the trip generation in the most congested hour will be even less than reported by this study.

2 The Planning Board also cites a study by MWCOG, but the MWCOG study covers a larger area and goes farther away from the Metro stations.

7. New policy areas – We support the change at White Flint, but oppose the creation of a Life Sciences Policy Area. In its September 15 letter, MDOT warns that without \$1.3 billion in state transportation expenditures assumed by the draft Master Plan, plus additional expensive widenings of Sam Eij Highway and I-270, severe congestion will occur on local roads surrounding the Sector Plan area. If the policy area shrinks, this congestion would not count in the PAMR calculation. Highway congestion in this area should not be ignored in the PAMR, if the current PAMR is retained.

Also, the Planning Board does not explain how it will be feasible to measure the PAMR tests in this small area. When the PAMR was first introduced, transit advocates pointed out the need to measure transit accessibility separately in Metro station policy areas. We were told by Planning Board staff that it is not feasible to apply the PAMR tests in such small areas. How is it that the PAMR test can now be applied in the Life Sciences Center? If separate areas are to be broken out for testing, the sectors around the existing Metro stations should have a higher priority than Gaithersburg West.

September 22, 2009

Stephen P. Elmendorf
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The Honorable Phil M. Andrews, President
Montgomery County Council
Council Office Building
100 Maryland Avenue
Rockville, MD 20850

Re: 2009 – 2011 Growth Policy

Dear Council President Andrews:

The law firm represents Percontee, Inc. On behalf of our client, I am submitting this written testimony in response to the recommendations contained in the Planning Board Draft of the 2009 – 2011 Growth Policy.

Given the fact that other groups and individuals from the business/development community will be addressing specific Growth Policy issues relating to Local Area Transportation Review (LATR), the parameters of the school capacity test and other elements of the draft Growth Policy, I am confining my testimony to the following five recommendations:

1. Policy Area Mobility Review (PAMR)

The current PAMR test should be eliminated. This APFO “test” is far too complicated and unpredictable. In application, PAMR has shown itself to be subject to wild unexplainable swings in its results. Since its inception, PAMR has produced results that seem to contradict what is experienced “on the ground” when it comes to traffic congestion. PAMR mitigation solutions remain largely unattainable and do not appear to produce measurable congestion relief.

The solution, contrary to the County Executive’s recommendation, is not to try and fashion yet another workable policy area traffic test. PAMR does not work. Its predecessor, Policy Area Transportation Review (PATR) never worked and only produced endless development moratoria in many areas of the County. According to information provided by Planning Board Staff the last time it was asked this question by the County Council, Montgomery County is the only local government jurisdiction in the county that uses any form of regional (as opposed to localized) traffic test to measure and then regulate the traffic impact of individual new development proposals. Perhaps the rest of the country knows something that this County has

The Honorable Phil M. Andrews, President
September 22, 2009
Page 2

yet to learn – regional traffic tests (like PAMR and its ancestor, PATR) do not work, for all of the reasons that PATR and PAMR have demonstrated time and time again.

In place of PAMR, the County Council should adopt legislation assessing an annual fee on new development. This annual fee, similar to a front-foot benefit charge, should be assessed and paid to the County over an extended period of time (20-30 years) and should be based upon the number of peak-hour trips that a new development proposal is projected to generate. The Council should set this fee at a reasonable, factually supportable level, recognizing that all new development in the County will pay this fee, not just development located in policy areas that would otherwise require full or partial mitigation under the current PAMR test. The Council should also provide for a reduced fee rate for development taking place in smart growth areas that, at a minimum, should include the Metro Station Policy Areas.

2. Transportation Revenue Bonds

The County should leverage the revenue stream from this development fee to support the issuance of transportation revenue bonds. The County should use those revenue bonds to fund the transportation improvements called for in the County's master plans and its capital budget.

3. Credits for LATR Improvements

The legislation that establishes this development fee should provide for a credit when a developer provides an LATR improvement that increases transportation capacity. This is similar to current law allowing credits against the transportation impact tax.

4. Comprehensive Review of Growth Policy

Along with its adoption of the 2009 – 2011 Growth Policy, the County Council should direct the Planning Board and its Staff to immediately begin a comprehensive review and rewrite of the County's entire Growth Policy. The current practice of having the Planning Board and its Staff consider incremental changes every two years to the Growth Policy and then having the County Council hurriedly react to those proposed incremental changes in the span of 6-8 weeks is unworkable and incredibly inefficient. The adoption of PAMR and the problems it has created are a direct result of the current Growth Policy review system.

The Council's directive to the Planning Board should make clear that no part of the current Growth Policy is beyond the Planning Board's professional review.

5. Bi-Annual Growth Policy Review

In conjunction with the preceding recommendation, the County Council should amend the County Code to eliminate the entire bi-annual Growth Policy review/adoption process. A

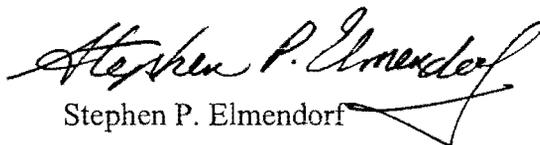
The Honorable Phil M. Andrews, President
September 22, 2009
Page 3

sensible, workable, sophisticated Growth Policy for this County should not be a document that the County Council, the County Executive, the Planning Board and the School Board are required to re-examine every two years. The only reason for a bi-annual review in the past has been because prior growth policies, including the current one, were almost entirely centered upon "tests" for transportation and schools. A test-based Growth Policy, with the tests as imperfect as the Growth Policy's tests have been, requires, almost invites, constant tinkering with the test parameters by the Council. It is my hope that the Planning Board and its professional staff, at the conclusion of a top-to-bottom review of the Growth Policy, will recommend to the County Council a Growth Policy for the 21st century that does not require, or even encourage, the Council to continuously reexamine and adjust its provisions every two years.

Given the amount of written and oral testimony the Council will receive on the Growth Policy, I have consciously kept the length of my written testimony to a minimum. I will be testifying at the public hearing, however, and will be happy to answer any questions you have at that time regarding this testimony.

Very truly yours,

LINOWES AND BLOCHER LLP


Stephen P. Elmendorf

SPE:rmg

cc: Montgomery County Councilmembers
Jonathan Genn, Esquire

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September 28, 2009

Mr. Phil Andrews, Council President
 Montgomery County Council
 100 Maryland Avenue
 Rockville, MD 20854

Re: The 2009-2011 Growth Policy DRAFT - comments by
 Maryland National Capital Building Industry Association ("MNCBIA")

Dear President Andrews and Councilmembers:

Thank you for the opportunity to present the MNCBIA's comments on the 2009-2011 Growth Policy; we regret that we were not able to present our comments at the September 22 public hearing.

The MNCBIA supports a growth policy that clearly promotes economic activity, provides clarity, addresses conflicting objectives so that sustainable competitive economic development can occur, and provides a rational nexus between the impacts of new development and mitigation requirements.

We commend the Planning Board's effort to respond to the bi-annual task of reviewing the County's Growth Policy, to redirect future development to transit centers and corridors, and to identify 'sustainable' development. However, the 2009 Growth Policy falls short in its vision as it does not resolve the current lack of Adequate Public Facilities, created by the behaviors of current residents nor does it recognize the changing economics that has been re-defining the employment market (and will do so for next twenty-four (24) months).

The Growth Policy places the obligation to provide needed infrastructure – be it schools or transit solutions – and the economic burdens *only* on new development, staying mute on the County's need to address, and provide, the much-needed public facilities where new development does not occur. As a consequence, the public is left to surmise, incorrectly, that new development is solely responsible for providing *all* needed public facilities.

To provide a comprehensive understanding of the role of new development *and the responsibility of the public sector*, Park & Planning must acknowledge in its Growth Policy those Capital Improvement Projects necessary to meet the standards the County requires new development to meet, as well as those that are necessary to sustain current residents, businesses and the community at large, in addition to those behavioral changes that will improve sustainability, quality of life, and expand home ownership opportunities today *if no new development were to occur*.

The 2009-2011 Growth Policy fails to recognize that any development -- no matter how 'smart' it might be and how much it pays in impact taxes and what infrastructure burdens are piled on as conditions for approval of the development plan -- has little

BUILDING HOMES, CREATING NEIGHBORHOODS

Representing the Building and Development Industry in Calvert, Charles, Montgomery,
 Prince George's and St. Mary's Counties and Washington, D.C.
 Affiliated with the Maryland State Builders Association and the National Association of Home Builders

chance of proceeding if the County places urban areas into moratorium, for reasons unrelated to new development.

The MNCBIA has reviewed the Growth Policy and its 16 formidable appendices, and we offer the following comments and observations:

1] the County is seeking to enhance pedestrian safety, and increase density in transit areas. We believe that the two traffic tests currently employed severely restrict the ability to achieve these objectives:

- LATR specifies traffic speed thru an intersection within a specified time period - the required speed, by definition threatens pedestrian safety.
- LATR, while testing for traffic congestion at intersections, requires mitigation measures that include wider intersections, turning lanes (and increased impervious surface), undermining the public policy objective to enhance pedestrian activity and improve pedestrian safety.
- PAMR is a test designed to fail under existing conditions which means that most development cannot pass, and is nearly impossible to mitigate to.
 - In an attempt to simplify the PAMR concept, we looked at one stretch of Wisconsin Avenue as if it was its own policy area to demonstrate an inherent flaw in the concept. To pass this simplified PAMR test, cars would need to be able to traverse Wisconsin Avenue from Bradley Blvd to Woodmont Avenue in less than 7 minutes, despite the 11 signalized intersections marking the 1.3-mile stretch. It is important to note that each red light results in at least a 1-minute delay. Consequently, the application would fail the test if traffic were to be stopped at 4 traffic lights. Such a standard is unachievable in rush hour conditions.

[Attached is a chart that clearly highlights the impossibility of passing the test in transit areas where the Growth Policy seeks to have development.]

- Park and Planning performs three traffic time runs to calibrate the model used for PAMR. Because it uses the longest time rather than the average time, traffic incidents on the testing day can adversely affect development approvals for years to come. An average or median of the three runs would be more accurate and fair.
- Underscoring the difficulty of providing mitigation, there is lack of agreement, among the planning and transportation reviewers on the allowable mitigation techniques which further confuses and limits available mitigation techniques in order to move a project through the development approval process

Consequently MNCBIA supports the elimination of PAMR and LATR; in lieu of these two tests, the MNCBIA recommends that Park & Planning add an Appendix to the Growth Policy DRAFT that lists the County's pending transportation-transit infrastructure improvements that are NOT triggered by yet-to-be development, providing stakeholders a clear summary of the public sector's responsibility that addresses the **current** needs of the County; the Appendix would also list the cost to provide the infrastructure.

Using this information, the County Executive and the Council should create a long-term funding mechanism on both new and existing development that allows the County to float the appropriate bonds, so the infrastructure is assured to be built rather than rely on yet-to-be-approved developments to address existing conditions created by current usage.

2] the Growth Policy recognizes that school capacity, with few exceptions, is driven primarily by turnover in exiting neighborhoods; however the Growth Policy fails to propose policy that involves the public sector as a participant in addressing the over-capacity enrollment in existing neighborhoods.

- The Growth policy should incorporate the MCPS data that profiles student generation by unit type to insure that stakeholders clearly understand the source of enrollment
- The Growth Policy should identify existing infrastructure needs so to include a policy that addresses, and resolves, those **existing** community needs in addition to those created by new development
- Schools that are impacted by new development should directly benefit from the impact taxes paid by the new development in its school district - impact taxes should be spent in the school cluster where the new development is located. A provision could stipulate, that in the event there is no need to create capacity in the cluster, monies can be transferred for projects that create capacity -- such transfers should be part of the public record to inform stakeholders a clear understanding of what monies are collected and where they are being spent

3] MCPS projects few students to be generated in new high-rise development in transit or CBDs. The current school capacity test, when applied to transit areas, creates predictable barriers and 'no certainty' for mixed-use development that include residential units, even as new projects seek to achieve the Growth Policy objective of 'smart' development. The current BCC moratorium spotlights the disconnect between policy objectives, even when over-capacity is not caused by new development.

- MNCBIA supports exempting CBDs and transit areas from the school adequate public facility test. While we recognize the outcry such a recommendation will generate, we believe that Planning must provide an alternative to projects that benefit the County (while implementing its goals) but are caught in a morass not of their making.

4] The Council should raise the threshold for school capacity moratorium from 120% to 135%. This was previously recommended by both the Planning Board and MCPS in 2007.

- Raising the threshold increases the potential revenue available to remedy capacity-issues, as the County would recover more school facilities payments.

5] While the MNCBIA supports the creation of a payment-in-lieu for PAMR mitigation, MNCBIA opposes the \$11,000 per vehicle trip value established by Park & Planning.

- We believe that including BRAC mitigation and the Montgomery General Hospital transit center distorts the average costs incurred by private development in Montgomery County. The underlying assumptions should be reexamined and the fee reduced.
- The \$11,000 PAMR fee per trip is excessive given that more traffic comes from existing development (such as thru-trips, trips from exempt government projects, etc) than from new development
- The \$11,000 PAMR fee per trip ignores the many roadway improvements to County and State roads that new development is mandated to provide as an exaction in the development approval process.
- The Growth Policy should propose an exemption from PAMR for those projects of strategic economic importance, with special emphasis on those projects located in areas that must be revitalized to prevent economic stagnation

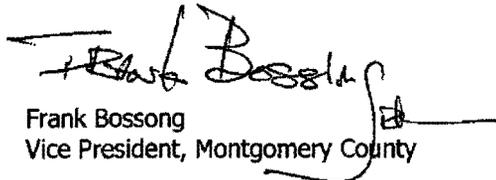
6] The Growth Policy proposes an alternative to LATR and PAMR – under discussion as the White Flint alternative - underscoring the importance of providing a large toolbox with flexibility to achieve the density so critical for the future of the County.

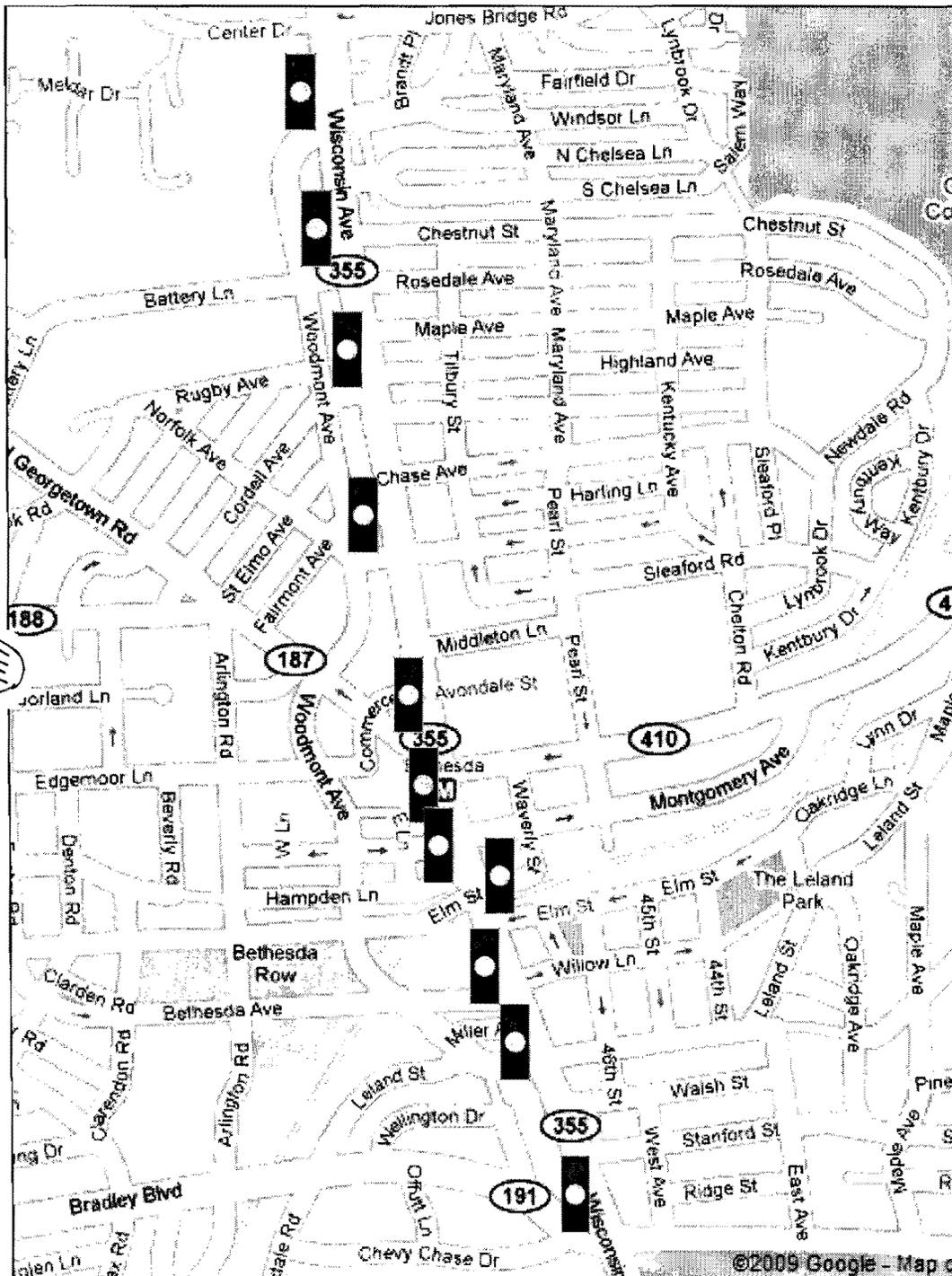
- However it fails to recognize that the additional mandates will substantially increase the cost of development, as well as the cost of market-rate residential units; in addition it will increase the subsidy required to produce 'affordable and workforce housing' units, and that the combination of additional mandates could preclude the very development that the Growth Policy seeks to incentivize.

Thank you for the opportunity to express our comments; the MNCBIA and our members look forward to working on the Growth Policy Draft with you in the coming months.

Sincerely,


Thomas M. Farasy
President


Frank Bossong
Vice President, Montgomery County



**Wisconsin Ave.
Bradley Blvd. to Woodmont Ave.**

1.3 Mile – Length

25 MPH – Speed Limit

25 MPH – Arterial Free Flow Speed

44% (11 MPH or 7 minute and 6 seconds travel time) – Acceptable Relative Arterial Mobility

11– Signalized Intersections

10.9 MPH – Average Speed (Congested Speed) from driving speed limit and catching 4 of the 11 lights with 1 minute delay at each

7 minutes and 6 seconds – Travel Time from Bethesda Ave. to Woodmont Ave. with 4 Lights (43.7% Relative Arterial Mobility) – FAILS PAMR

HOW CAN PAMR CALL THIS A FAILURE?

PAMR's Relative Arterial Mobility Test Ignores Real Life – Drivers are Required to STOP at Red Lights

Wisconsin Avenue (Bradley Boulevard to Woodmont Avenue)

	PAMR Standards		Real Life - Travel the Speed Limit but STOP 1 min. for Each Red Light (11 max.)				
	Arterial Free Flow Speed	Acceptable Relative Arterial Mobility	1 Red Light	2 Red Lights	3 Red Lights	4 Red Lights	5 Red Lights
Length (miles)	1.3	1.3	1.3	1.3	1.3	1.3	1.3
Average Speed (MPH)	25.0	11.0	18.9	15.2	12.7	10.9	9.6
Travel Time (minutes)	3.10	7.06	4.10	5.10	6.10	7.10	8.10
Relative Arterial Mobility (%)	100%	44%	76%	61%	51%	44%	38%
PAMR Test	Pass	FAIL	Pass	Pass	Pass	FAIL	FAIL

Note: PAMR evaluates all Arterial Roads in a Policy Area to determine Relative Arterial Mobility. This example simplifies the point by using just one road.

As a result, new development has to spend an unfair amount of money to meet the an unrealistic standard.



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

OFFICE OF THE CHAIRMAN

July 29, 2008

The Honorable Mike Knapp, President
The Montgomery County Council
100 Maryland Avenue
Rockville, Maryland 20850

President Knapp and Members of the County Council:

I am pleased to transmit for your consideration the following studies called for in the *2007-2009 Growth Policy*. Each Growth Policy resolution contains a list of work program items, called "Issues to be Addressed in the Future." The *2007-2009 Growth Policy* required six studies to be delivered to the County Council on or before August 1, 2008.

On July 21, 2008 the Planning Board reviewed these studies and unanimously approved their transmittal. Three of the six studies were conducted to provide information to the Council on specific topics such as development activity, housing affordability and design of public facilities. The other three studies were conducted to provide guidance or recommendations related to Policy Area Mobility Review (PAMR), Local Area Transportation Review (LATR) and the coordination of public agency agreements as a condition of development approval. The Planning Board reviewed all of the studies but is not ready to endorse recommendations at this time because of the press of other matters that require decisions before the August recess. We will give them full consideration this fall as we begin preparation of the 2009-2011 Growth Policy recommendations.

Studies *F3-Alternatives to PAMR* and *F4-Guidelines for Non-Auto Facilities* offer amendments to the PAMR and LATR guidelines. These recommendations fall under the purview of the Board's authority to adopt or amend the PAMR and LATR guidelines pursuant to the intent of the *2007-2009 Growth Policy*. Below is a summary of staff work.

- *F3 Alternatives to PAMR: The Planning Board, with the aid of the Executive, must evaluate alternatives to Policy Area Mobility Review (PAMR) as a policy area level transportation test. As part of this study, the Planning Board must evaluate alternative methods to calculate the key components of PAMR, relative arterial mobility and relative*

transit mobility, and options to replace PAMR and LATR in Metro station policy areas with a broad requirement for trip mitigation from new development.

Key staff recommendations related to alternatives to PAMR are:

1. Retain the overall PAMR measurement tool as instituted in 2007-2009 Growth Policy for the time being.
2. Immediately introduce an \$11,000 value per vehicle trip to be mitigated for applications that need PAMR mitigation for between 3 and 30 vehicle trips. For these smaller applications an applicant should be able to proceed directly to the "payment-in-lieu of construction".
3. Review means to integrate our sustainability and design excellence objectives into PAMR during the comprehensive growth policy studies due to the Council next spring.

The Planning Board will explore these recommendations this fall and take appropriate action on them. The Board also suggested that the larger issue – the role and utility of an areawide transportation test – may need to be revisited.

- ***F4: Guidelines for Non-Auto Facilities:*** *The Planning Board, with the aid of the Executive, must evaluate its guidelines for trip credits for non-automobile facilities, including the text and chart that appears on pages 26-29 of its Local Area Transportation Review Guidelines. In reviewing these credits and acceptable facilities, the Board must consider factors such as the likelihood of the action reducing peak hour auto trips and the approximate construction costs of each action, to allow some equivalency between actions. The Board must also evaluate its procedures to monitor the construction of facilities for which credits are given. The Board must submit any revisions of these trip credit guidelines to the Council for its review.*

Planning staff is recommending that the County follow a three-step approach to address the peak period trip credit for implementing the non-automobile transportation facilities:

1. Establish an \$11,000 cost per peak period trip unit.
2. Establish a list of eligible facilities.
3. Identify a list of candidate projects available to assist applicants to develop their mitigation plan.

The Planning Board will hold an additional work session on the staff proposals.

- ***F5 Development Activity Status Report:*** *The Planning Board must prepare a status report of development activity that has occurred since this Growth Policy took effect. The Board must report, to the extent that it is able, on the effect of Growth Policy and impact tax changes on development activity in Clarksburg relative to nearby areas inside and outside the County.*

Staff has reviewed development activity statistics for the two-year period preceding the adoption of the Growth Policy, and for the six months that followed. Although the pace

of development approval activity (as well as actual construction activity) has declined significantly over the period, much of this is likely due to the economic climate in the county, region and nation rather than changes to the County's growth policy.

- **F6 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.*

In response to this request from the County Council, the Planning Department completed a series of Design Seminars in conjunction with Roger K. Lewis, FAIA. The purpose of the Design Seminar series was to develop policy recommendations and practices that foster high quality civic design in planning sustainable centers and communities, regulation of development projects, and construction of public facilities.

To expand the outreach efforts and to improve the involvement of the agencies responsible for the design of public facilities, a final seminar or design summit will be held in the fall of 2008 to develop a consensus and commitment to design excellence as a core value in all public projects as directed by the County Council. The recent completion of the design charrette for SilverPlace is an example of a collaborative effort to produce a high quality public project.

The Planning Board expressed its strong support for the design summit and the role that it can play in improving the attractiveness and function of the County's public realm, which depends on the quality of design of both public facilities and private development.

- **F7 Transportation-Housing Affordability Index:** *The Planning Board must conduct the necessary research and analysis to develop a transportation-housing affordability index for the County. The Board must develop the index as part of its FY08 work on a Housing Policy Element of the General Plan unless it concludes that the index is better developed as part of F9 Sustainable Quality of Life Indicators.*

The Planning Department has partnered with Arthur C ("Chris") Nelson, formerly with Virginia Tech and now Director of Metropolitan Research at the University of Utah, on producing this index for Montgomery County. Dr. Nelson worked with the Center for Neighborhood Technologies in Chicago to develop a housing-transportation affordability index -- initially for the Minneapolis-St. Paul region and now for 52 regions around the United States.

The Planning Board discussed possible uses for the index, including its utility as one of the County's sustainability indicators as well as the potential for adding energy costs to the index.

- **F8 Public agency signoff:** *The Planning Board, after consulting Executive staff, must evaluate and submit a recommendation to the Council for any necessary changes to*

current law or policy regarding the point or points in the development process when an agreement between an applicant and a public agency is required for an additional facility or program which would be a condition of development approval.

Planning staff developed a recommended policy for the required signoffs from public agencies on conditions of approval of development applications. The recommended policy, in the form of a flow chart and a set of recommendations, is the culmination of discussions with Commission staff, Department of Transportation (DOT) staff, County Council staff, and a public forum held at MRO in June.

Staff recommended that the Planning Board's review process be revised to incorporate the following:

1. Facilitate greater interagency collaboration with applicants prior to the submission of a formal LATR/PAMR study or development review application, including M-NCPPC and DOT concurrence on the general mitigation approach.
2. Permit an increase in DOT/SHA review time for staff approved LATR/PAMR studies to 60 days for those applications proposing mitigation.
3. Define major off-site capital projects that may require mandatory referral.
4. Formalize the reconsideration process and timeframe for agency concerns with Planning Board approvals.

The first two recommendations would require a change to the Planning Board's LATR/PAMR Guidelines (amended both April 15, 2008 and May 15, 2008) to require applicant compliance. Staff proposed pursuing all four recommendations but withholding formal Board adoption of the recommendations until the next formal amendment of the LATR/PAMR Guidelines anticipated next spring.

The enclosed studies are therefore being transmitted without Board recommendations at this time. They raise important issues that deserve full public discussion by the Board before we make recommendations to the Council. The individual studies are attached to this memo as separate memoranda from the planning staff leading them.

The Board and staff look forward to receiving any comments you may have regarding the enclosed material and answering any questions.

Sincerely,



Royce Hanson
Chairman



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

July 15, 2008

MEMORANDUM

TO: Karl Moritz, Chief
Research and Technology Division

VIA: Daniel K. Hardy, Acting Chief *DKH*
Transportation Planning

FROM: Eric Graye, Planning Supervisor *EG*
Transportation Planning

SUBJECT: 2007-2009 Growth Policy Study Update
Resolution No. 16-376
Study F3: Alternatives to Policy Area Mobility Review (PAMR)

INTRODUCTION

This memorandum presents staff recommendations pertaining to Study F3 under County Council Resolution 16-376 related to the evaluation of alternatives to Policy Area Mobility Review (PAMR) as a policy area transportation test. This task included an evaluation of alternative methods to calculate key components of PAMR, relative arterial mobility and relative transit mobility, as well as options to replace PAMR and Local Area Transportation Review (LATR) with a broad requirement for trip mitigation from new development. Recommendations and discussion related to six (6) alternative refinements to PAMR are provided below.

RECOMMENDATIONS

Staff recommends that the Planning Board approve transmittal of staff recommended policy to the County Council for their review and comment. Key staff recommendations related to alternatives to PAMR are:

1. Retain the overall PAMR measurement tool as instituted in 2007-2009 Growth Policy for the time being.
2. Immediately introduce an \$11,000 value per vehicle trip to be mitigated for applications that need PAMR mitigation for between 3 and 30 vehicle trips. For these smaller

applications an applicant should be able to proceed directly to the "payment-in-lieu of construction".

3. Review means to integrate our sustainability and design excellence objectives into PAMR during the comprehensive growth policy studies due to the Council next spring. We believe the PAMR approach remains a valid analysis tool, but we need to re-examine:
 - a. what our multimodal mobility expectations should be. In essence, our auto mobility expectations are probably set too high, so we should consider redrawing the lines of acceptability on the PAMR chart.
 - b. how we continue to use the mitigation approaches (such as the \$11,000 per trip cost combined with impact tax credit discussions this fall) to both encourage, and provide revenue for, funding transit investment
 - c. whether special taxing districts, in conjunction with strict staging mechanisms, such as that contemplated for the White Flint Sector Plan area, could be established to provide a more streamlined delivery of transportation infrastructure in our more intensely developed transit-oriented districts.

DISCUSSION

Our analysis evaluated six different alternatives to, or changes within, PAMR. The analysis and findings of each are summarized below.

1. Proportional Staging

This alternative would allow forecasted master planned development to occur in proportion to the amount of un-built master planned transportation capacity for defined subareas of the County. While conceptually appealing, this approach has a "fatal flaw" in that it assumes a "fixed" end-state condition. This assumption is problematic because it:

- assumes every policy area has an optimal land use/transportation balance (neither too much, nor, importantly, too little) land use at end state and
- allows no flexibility to modify either the transportation or land use in master plans over time in response to change conditions.

One possible way to address this fatal flaw would be to use a "sliding scale" in order to redefine the end-state condition when a previously undefined master planned transportation project is introduced. That scale would be "adjusted" so that a change in the definition of end-state transportation capacity would accompany a commensurate change in the level of master planned land use development. As a hypothetical example:

Say the "Inside the Beltway" subarea has 81.1% of forecasted housing and 87.7% of forecasted transportation capacity. Then suppose the master plan for this subarea assumes 100 units of development capacity, of which 87.7 are built. Then assume a previously non-master planned transportation facility, like the Purple Line, is adopted in the plan. Assume the Purple Line

provide 10 units of transportation capacity that would yield a new total level of transportation capacity at $100 + 10 = 110$ units. With no adjustment to the housing forecast for the area the 87.7 existing + programmed transportation units would account for only 79.7% of the planned capacity (i.e., $87.7/110$), until the Purple Line is programmed. The action of adding the Purple Line to the master plan would cause the subarea to go from adequate to inadequate.

But if the area was simultaneously “up-zoned” to reflect the additional housing that could now be accommodated as a result of the additional transportation capacity added to the plan, that action would “re-adjust” the definition of end-state accordingly. Since the Purple Line increased transportation capacity by 10% (i.e., $110/100$), the percentage of forecasted housing would have to be adjusted similarly so as to reflect a 10% increase in the housing forecast. As a result of the up-zoning, the new percentage of forecast housing in the plan area would be reset to 81.1%. This approach would keep the proportional supply of transportation capacity ahead of the proportional demand for housing.

The primary drawback to this approach is that it too closely binds land use decisions to transportation decisions (again, based on the assumption that the current end-state is perfectly balanced.) The addition of any new master planned transportation capacity (say, a new BRT guide-way along Veirs Mill Road) would mandate higher zoning. Conversely, the removal of any new master planned transportation capacity (say, the removal of the Rockville Pike/Nicholson Lane interchange) would mandate downzoning. Staff finds that this is not a prudent means for master planning.

2. Disaggregated Relative Transit Mobility (RTM)

One critique of the Relative Transit Mobility (RTM) measure, as currently developed, is that the aggregation of travel times considers the aggregation of journey-to-work travel times from any subject policy area to all other areas in the region (weighted by total trips by mode, rather than first considering relative transit access for specified origin-destination pairs prior to the weighting by total trips. Staff has calculated the year 2012 PAMR results using the current as well as the alternative disaggregated RTM methodology. A comparison of the results of the two approaches is described below.

The year 2012 PAMR charts resulting from the application of the current and alternative disaggregated RTM methods are shown as Exhibit 1 and Exhibit 2, respectively. A table reporting the RTM values resulting from the two approaches is provided as Exhibit 3. In general, the disaggregated RTM values are 5% to 10% lower than the current method. Based on the PAMR scores resulting from the alternative process, nearly one-half of the County (11 policy areas) would fall into the “Acceptable with Full Mitigation” category (i.e., Germantown East, Gaithersburg City, North Potomac, Montgomery Village/Airpark, Damascus, Clarksburg, Fairland/White Oak, Rockville City, Bethesda/Chevy Chase, Silver Spring/Takoma Park and Potomac). The policy areas that would be required to mitigate 100% of the trips generated from new development using the current and disaggregated RTM methods in the 2012 PAMR analysis are shown in Exhibit 4 and Exhibit 5, respectively.

A hypothetical example of the two alternative RTM methods is provided as Exhibit 6. In the example, traffic zone A has two origin-destination pairs, A to B and A to C. A total of 1000 trips

(800 by auto with an average travel time of 15 minutes and 200 by transit with an average travel time of 30 minutes) travel the relatively short distance from A to B. A total of 200 trips (150 by auto with an average travel time of 75 minutes and 50 by transit with an average travel time of 60 minutes) travel the relatively long distance from A to C. Given this scenario, the current (aggregate travel time) method yields a RTM value of 68%. Implementation of the disaggregated method yields a RTM value of 62.5%.

A key point to note is that the variation in distance between the two O-D pairs makes a difference in RTM when computed using the two approaches. If transit-oriented destinations are father away in distance than auto-oriented ones, then weighting the RTM to reflect trip lengths (as reflected in the current approach) would result in a higher RTM. The current RTM approach also reflects the fact that transit mode shares are generally higher for longer distance commutes.

3. PAMR without Relative Transit Mobility

This approach would establish Relative Arterial Mobility standards for selected groupings of policy areas using an approach other than Relative Transit Mobility. This type of approach was used prior to 1994 when area roadway congestion standards were set by considering several different transit service parameters. An example of this concept is displayed in the table provided as Exhibit 7. Staff finds this approach is undesirable for several reasons, including:

- it does not address transit access or mobility measures;
- it is subject to arbitrary designation and;
- it provides a framework that makes it difficult for policy areas to move from one group designation to another.

4. Regional Accessibility Indices

In the context of transportation planning, accessibility is typically defined as the number of jobs and/or housing units that can be reached with a specified time budget from a specified location. Staff finds that accessibility indices are excellent technical measures for evaluating the relative performance of alternative land use/transportation scenarios (an application regularly performed by MWCOC) or gauging time-series data trends. It is also a measure for which land use changes are often an effective strategy. However, this measure suffers the same fatal flaw as proportional staging; there is no easy way to define and communicate an absolute standard of adequacy (i.e., having 500,000 jobs within 45 minutes is acceptable but having only 450,000 jobs within that same travel time is not ...). Staff recommends continuing to pursue accessibility as measure of sustainability, but not as a staging tool.

5. Mandatory Trip Reduction

This approach, in lieu of PAMR and perhaps LATR, would take the Alternative Review Procedure already in available in MSPAs (including payment of a higher transportation impact tax and provision of programs to achieve a 50% reduction in peak vehicle trips generated) and make it mandatory. The primary concerns with this proposal are:

- Whether it would tend to encourage or discourage desired development and
- Whether the effects of the 50% “unmitigated” traffic on adjacent (or “parent”) policy areas are sufficiently addressed through the current PAMR process.

A secondary concern is related to the amount of inter-agency staff effort needed to monitor Traffic Mitigation Agreements over the long haul.

The primary benefits of the mandatory trip reduction proposal are that it streamlines the development review process and encourages private sector participation in the provision of travel demand management (TDM) programs and services. These advantages were seen as incentives when the Alternative Review Procedure was established for MSPAs in 1997. However, only two development projects, Twinbrook Station (subsequently annexed by the City of Rockville) and North Bethesda Town Center, have applied under this procedure. The lack of historic participation suggests that if it were made mandatory, it could dampen, rather than incent, MSPA development.

This concern would be particularly true for smaller, single-use projects. Both Twinbrook Commons and the North Bethesda Town Center were large (more than 15-acre) mixed use projects and the ability to apply “internal capture” of trips from one use to another on the same site was viewed as integral to the ability to reduce 50% of the peak hour vehicle trips that would otherwise be generated by the site. Neither site has yet developed to the point where the Traffic Mitigation Agreements are active to demonstrate conformance with the trip reduction requirement. We understand that the risk of non-performance may also affect developer interest in the alternative process.

We are exploring a similar concept in the development of the White Flint Sector Plan which would replace the LATR and PAMR processes with a special taxing and administrative district of sorts. Within this district, needed infrastructure would be funded by a pro-rata assessment based on property characteristics associated with travel demand generation (similar to the process used to set the County’s current transportation impact tax, but calibrated to the Sector Plan needs). The Sector Plan would also need a staging mechanism that ensured periodic achievement of transportation performance goals. Most TDM programs and services, such as shuttle services and ridesharing programs, benefit from economies of scale, so that involving all Sector Plan development in a common trip reduction goal would be both more efficient, and more likely attainable, than requiring that each individual property achieve the same goal. We will continue to develop this concept for White Flint with an eye to how it could be applied elsewhere in the County.

6. PAMR De-Minimis and Payment-in-Lieu Provisions

The current Growth Policy requires consideration of PAMR impacts for any development that generates more than three (3) weekday peak-hour trips. The establishment of a de-minimis level for the proposed PAMR test was not explicitly discussed during the spring or summer of 2007. Staff had developed the test with the presumption that the same 30-vehicle trip threshold would apply for both LATR and PAMR. For comparison purposes, the Institute of Transportation Engineers suggests that a 100-vehicle trip threshold is an appropriate minimum level for

requiring a traffic impact study considering both the significance of the impact and the administrative cost of traffic study development and review.

Planning Department staff have subsequently (along with MCDOT) been evaluating proposals for the installation of individual handicap ramps for a revised APF finding at time of building permit. In such cases, the administrative cost to the taxpayer of staff time can approach installed values of the mitigation device itself. Staff therefore recommends revamping the approach for those applications that generate between 3 and 30 peak hour trips to allow an applicant to proceed directly to the payment-in-lieu of construction approach.

Attachments (7)

g:\grayer\GP Studies\F3_study_v6

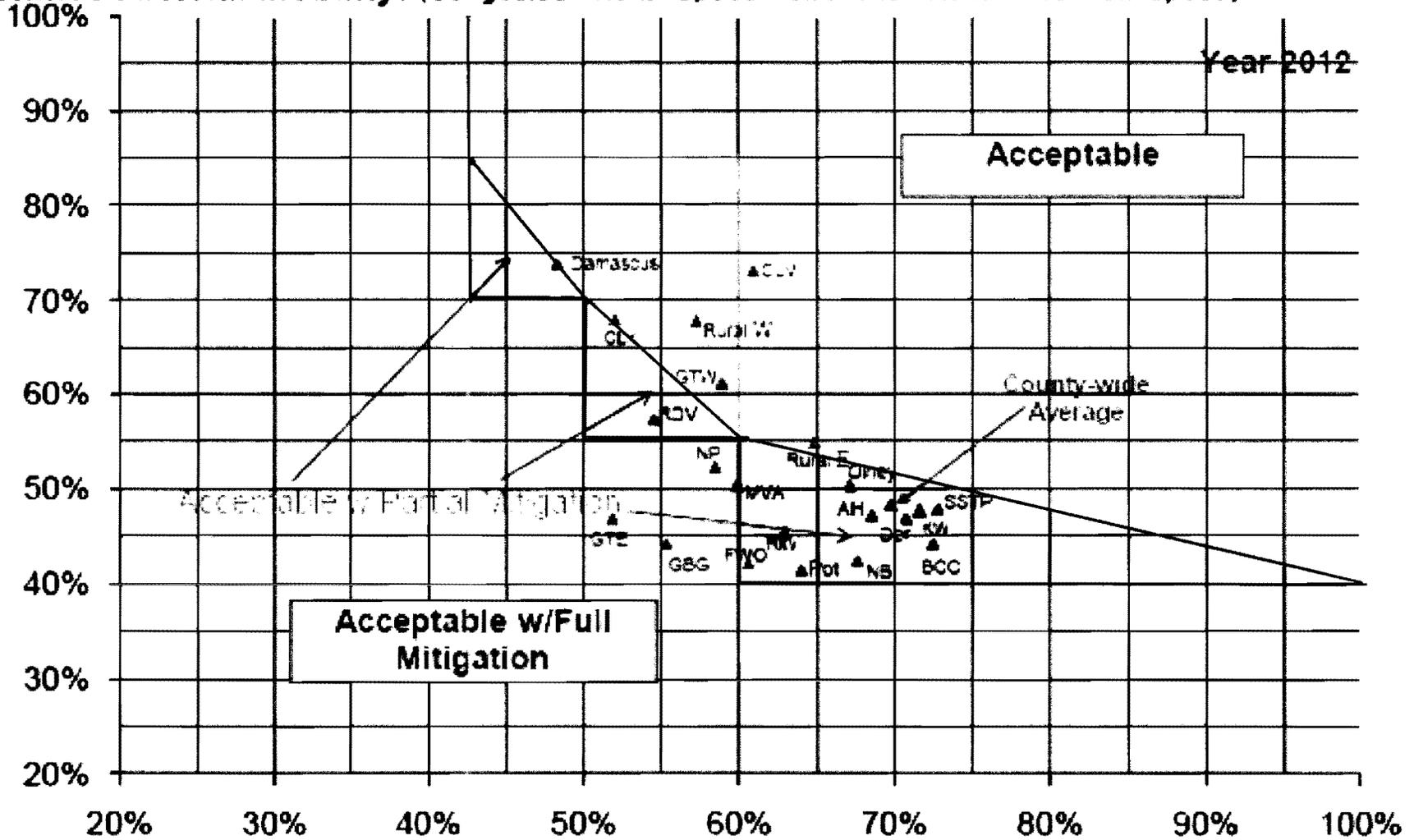
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Exhibit 1: 2012 PAMR Chart

Year 2012 PAMR Chart

Relative Arterial Mobility: (Congested Arterial Speed Relative to Arterial Free Flow Speed)

(56)

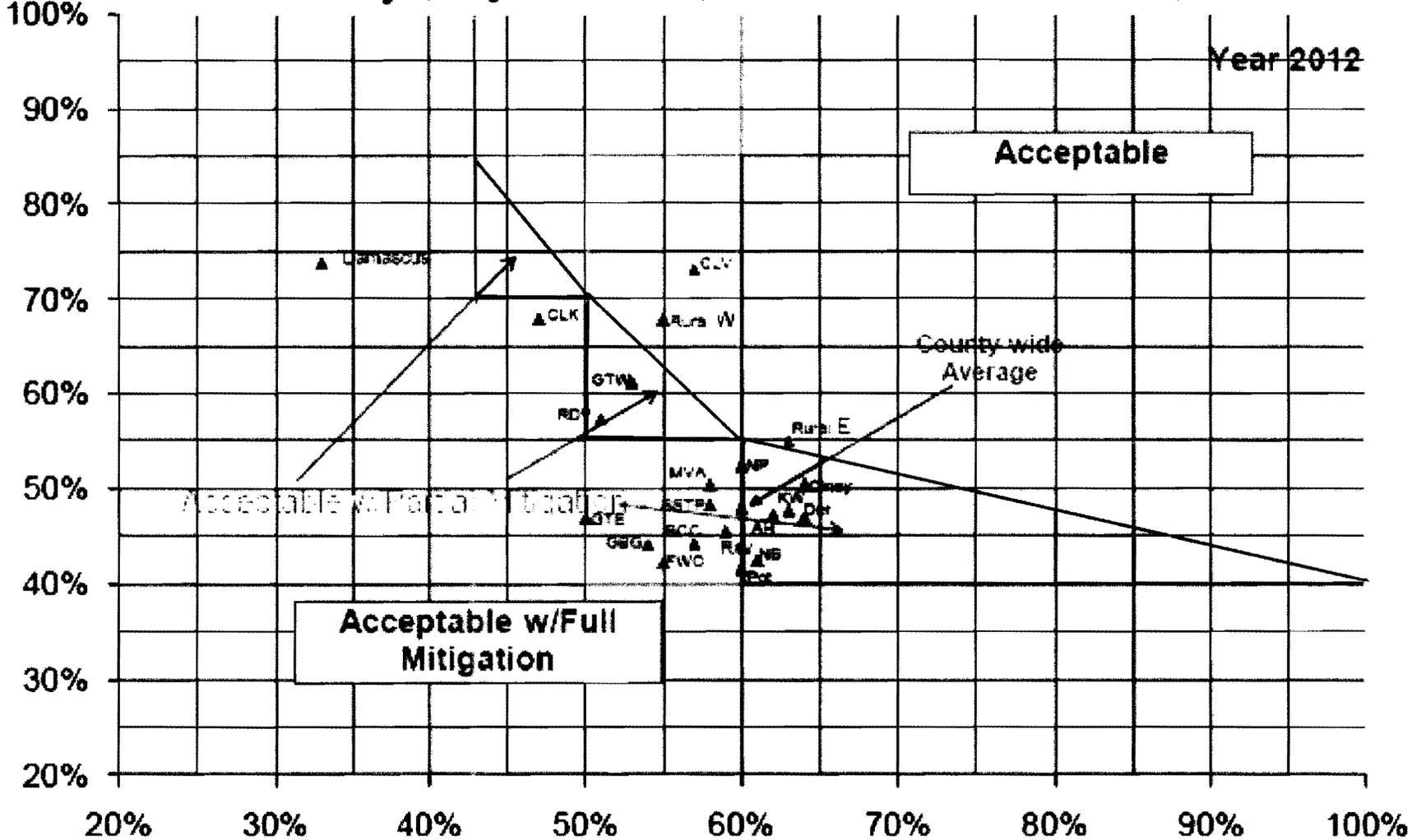


Relative Transit Mobility: (Overall Transit Speed Relative to Overall Speed Using Arterials)

Exhibit 2: 2012 PAMR Chart with Disaggregated RTM

Year 2012 PAMR Chart w/Disaggregated RTM

Relative Arterial Mobility: (Congested Arterial Speed Relative to Arterial Free Flow Speed)



Relative Transit Mobility: (Overall Transit Speed Relative to Overall Speed Using Arterials)

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Exhibit 3: Comparison of Year 2012 Aggregated and Disaggregated RTM

Policy Area	RTM (Aggregated)	RTM (Disaggregated)
Aspen Hill	69%	62%
Bethesda/Chevy Chase + MSPAs	72%	57%
Clarksburg	52%	47%
Cloverly	61%	57%
Damascus	48%	33%
Derwood + Shady Grove	71%	64%
Fairland/White Oak	61%	55%
Gaithersburg City	55%	54%
Germantown East	52%	50%
Germantown West + TCPA	59%	53%
Kensington/Wheaton + MSPAs	72%	63%
Montgomery Village/Airpark	60%	58%
North Bethesda + MSPAs	68%	61%
North Potomac	58%	60%
Olney	67%	64%
Potomac	64%	60%
R & D Village	55%	51%
Rockville City	63%	59%
Sil Spring/Takoma Park + MSPAs	73%	60%
Rural East	65%	63%
Rural West	57%	55%
Montgomery County	70%	58%

Exhibit 4: 2012 PAMR 100% Trip Mitigation Policy Areas Using Current RTM

(55)

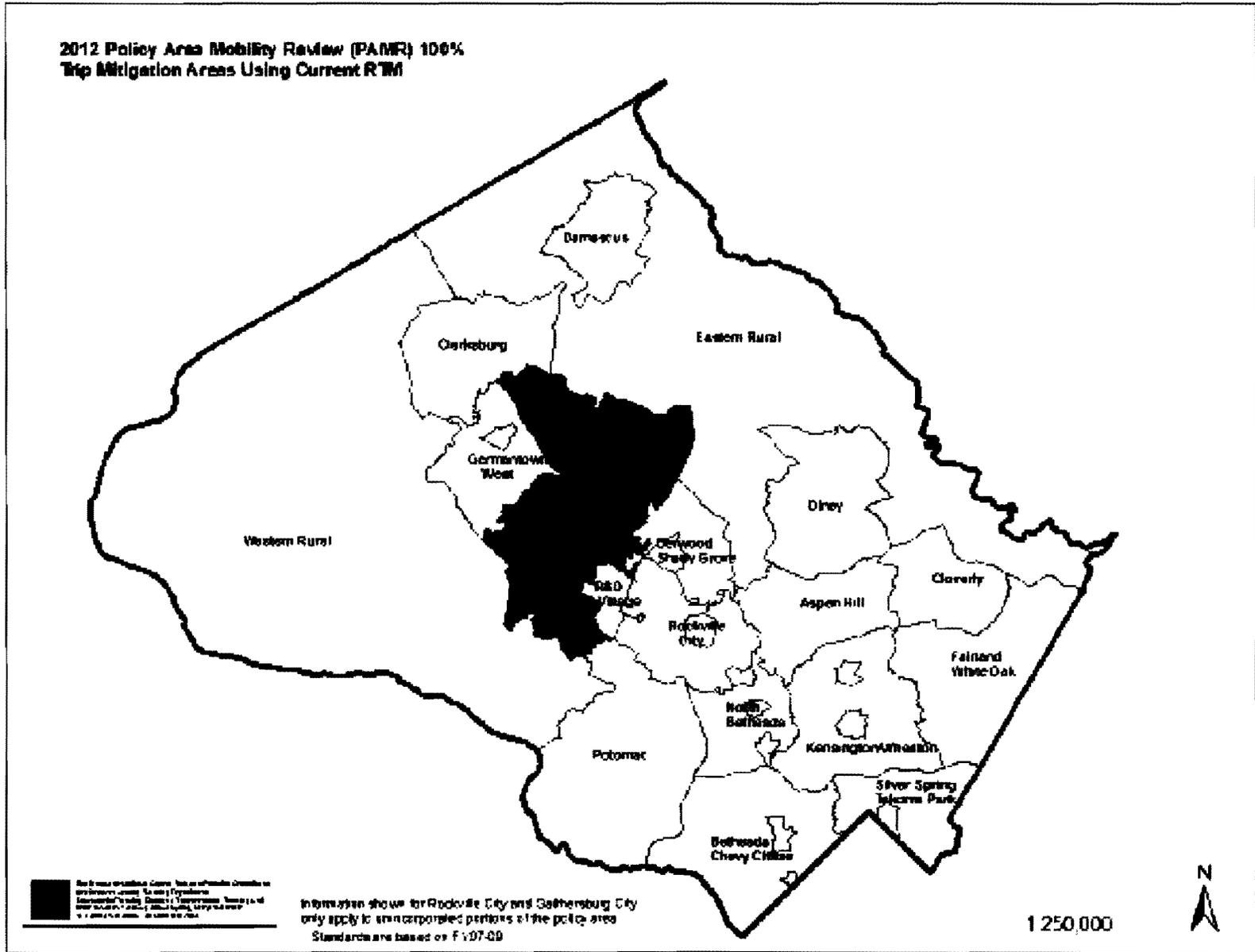
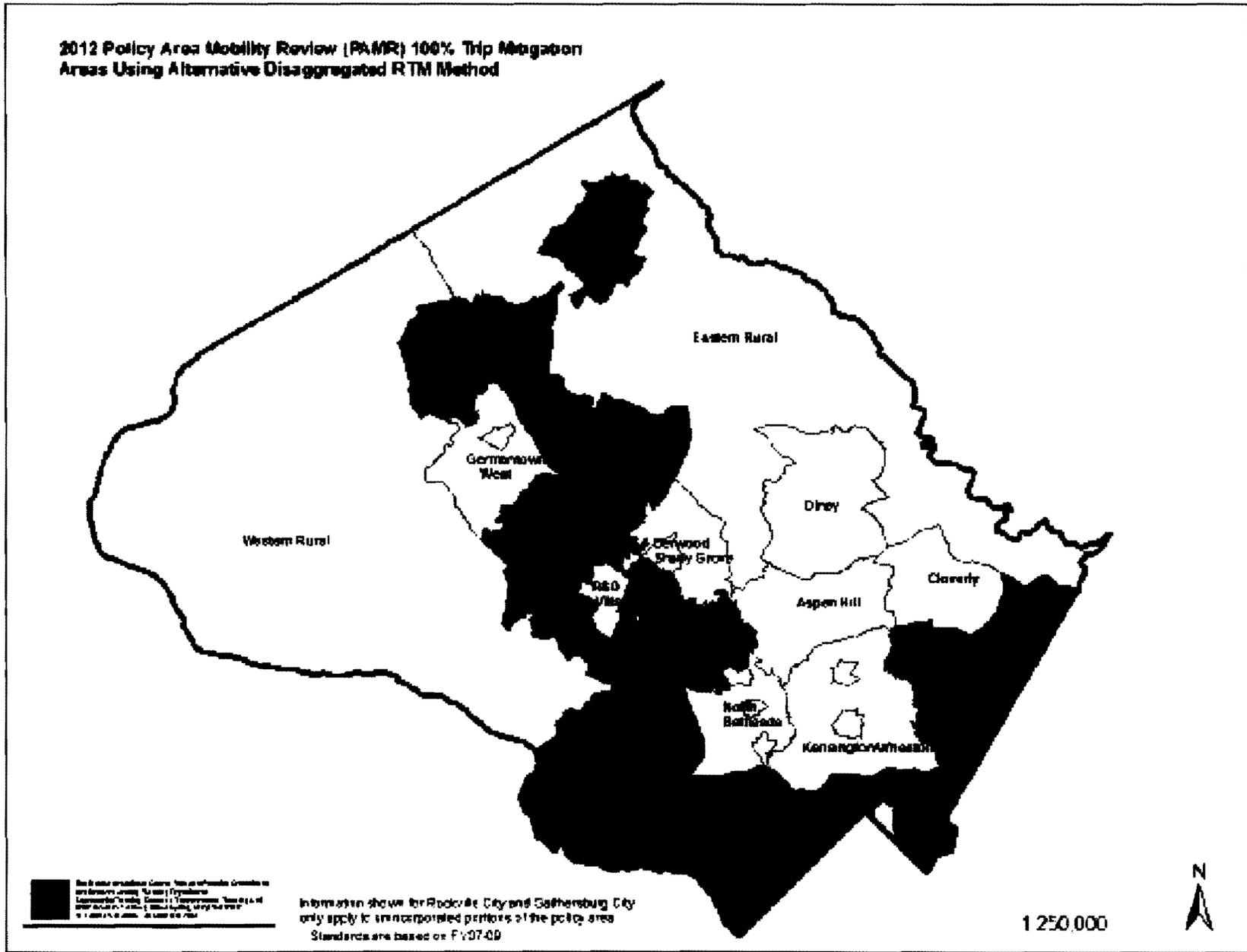


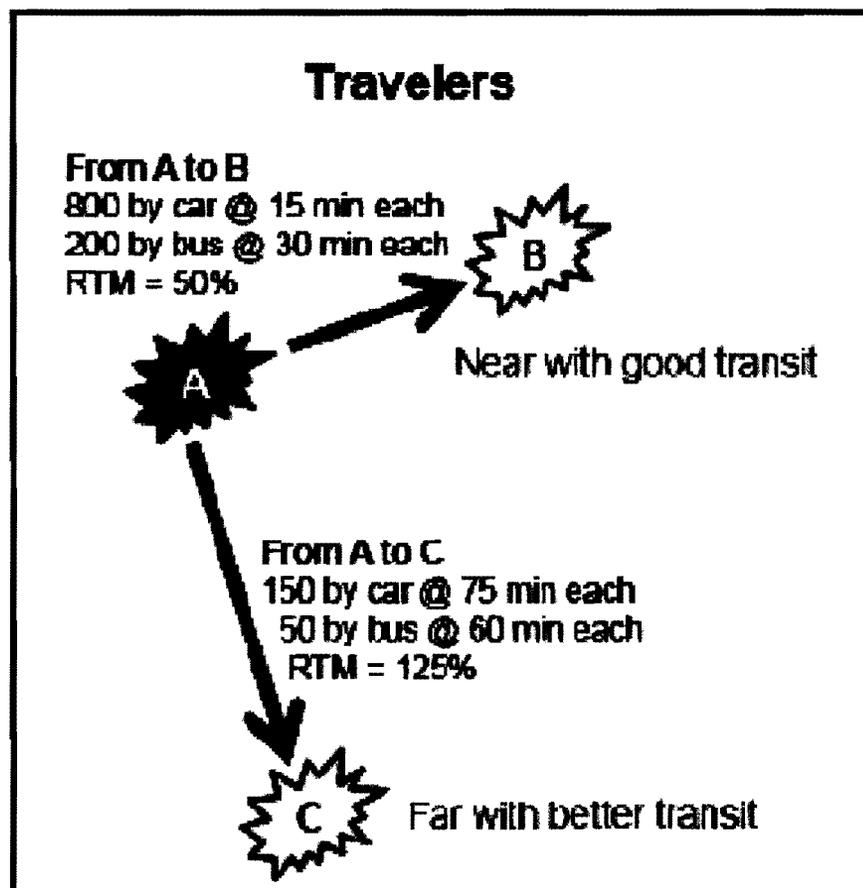
Exhibit 5: 2012 PAMR 100% Trip Mitigation Areas Using Disaggregated RTM

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F3 - Alternatives to PAMR

Example of alternative Relative Transit Mobility (RTM) methods:



PAMR method

Average transit time (for 250 trips) = 36.0 min

Average auto time (for 950 trips) = 24.5 min

RTM = 68%

Disaggregated RTM

1000 trips from A to B at RTM = 50%

200 trips from A to C at RTM = 125%

Average RTM = 62.5%

Disaggregated RTM reduces the effect of a low number of long-distance transit riders

Exhibit 7: Table Quantifying the Correspondence Between Transit Availability and Average Level of Service Standards

CHART 1: CORRESPONDENCE BETWEEN TRANSIT AVAILABILITY AND AVERAGE LEVEL OF SERVICE STANDARDS

Average Level of Service Standards	Group Classifications	Public Transport Alternatives to Automobile Travel	Transit Services Available or Programmed				
			Auto Dependent System Park/Ride Access	and/or Community and Local Bus Service	Bus Base Systems Regional Park/Ride Express Bus and High Occupancy Vehicle Priority Systems	and/or Commuter Rail or Light Rail	Fixed Guideway Systems Metrorail
*	I	Marginal	Marginal access to stations or bus routes outside of the area	Not available	Not available	Marginal amount of the area is within walk access	Not Available
\bar{C}	II	Limited	Limited number of park/ride spaces	Limited coverage and frequency	Limited park/ride spaces or lots with local bus service	Limited park/ride access and walk access	Park/ride and kiss/ride access limited to nearby stations outside of the area
\bar{C}/\bar{D}	III	Moderate	Moderate number of park/ride spaces, limited kiss/ride service	Moderate coverage, service limited to policy frequencies	Moderate express bus service in conjunction with a system of park/ride lots	Moderate parking or walk access with system transfers	Moderate station coverage in the area with associated feeder access
\bar{D}	IV	Frequent	Moderate park/ride spaces and moderate kiss/ride service	Moderate coverage, combined policy and frequent demand-based service	Priority treatment for frequent express buses, local circulation feeder services in conjunction with a system of park/ride lots	Same as Group III above	More dense spacing of stations and bus routes
\bar{D}/\bar{E}	V	Full	Limited park/ride with full reliance on kiss/ride access	Full area coverage and a large number of routes with frequencies based on demand	Same as Group IV above	Same as Group III above	Full frequency and full reliance on kiss/ride, easier walk and bicycle access
*	VI	Expanded	Expanded park/ride with reliance on kiss/ride access	Expanded bus frequencies; 100 buses in PM peak	Same as Group IV above	Same as Group III above	Designated CBD; controlled parking; Transportation Mgmt. District

* See Text of the Recommended FY 90 AGP for Methods and Standard of Measuring Traffic.

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APFO TEST FOR GROWTH POLICY

- 1) Divide the county into travel sheds based on road characteristics and development characteristics.
 - Rural sheds
 - Suburban sheds
 - TOD sheds
- 2) Adequacy would be based on 85% of the arterial segments in a travel shed performing at the appropriate LOS which will be calculated as the actual travel time as a percent of free flow speed (FFS). For purposes of calculation, the ICC, 495 and I-270 will not be included.
 - Rural shed – LOS B defined as 80% of FFS
 - Suburban shed – LOS C defined as 60% of FFS
 - TOD shed – LOS E defined as 40% of FFS
 - Example: If the speed limit is 35, the FFS is 32 (90% of FFS), the 40% would equal 13 mph.
- 3) An area shall be deemed adequate if the above standards exist and projects will be approved if their traffic impact does not cause the number of arterial segments not meeting standard to rise above 85%.
- 4) Mitigation – Mitigation of trips sufficient to achieve the standard will be accomplished by trip reduction measures. Parking can be reduced to a number sufficient to pass the test, transit capacity can be added sufficient to pass the test, or a combination of the two approaches may be used. If transit is planned and in the CIP and concurrent reductions in parking within a travel shed, contingent upon that transit, so that the travel shed would meet the standard, a project may be approved.
- 5) Impact fees will be used for transit projects that add capacity in a measurable way.

Possible Transit test

Transit will be deemed adequate if there is sufficient capacity(seats available) to achieve a 20% (rural shed), 30% (suburban shed), or 40% (TOD shed) modal split (based on distribution of trips using actual distributions for a given travel shed), AND if Transit meets the following criteria

- Headways of <13 minutes during peak periods
- On time performance LOS C as determined by the TRB Transit LOS Manual
- Trip time by transit when compared to time by auto equals LOS C or better as determined by the TRB Transit LOS Manual.

If the county implements and funds a county-wide transit system, transit will be deemed adequate if there's sufficient seat capacity for a 45% modal split and conditions listed above.

Other steps

The County should mandate a commuter trip reduction program requiring all employers of 15 or more employees in suburban or TOD sheds to reduce SOV employee trips by 10% by 2013.

In TOD sheds, implement maximum parking standards 45% SOV's as transit becomes available and provide transit capacity equal to 45% of employees in TOD.

Make employee parking the primary responsibility of PLDs, while allowing new development to provide adequate parking for retail customers and office clients and a limited number of employee spaces.

A side thought to ponder:

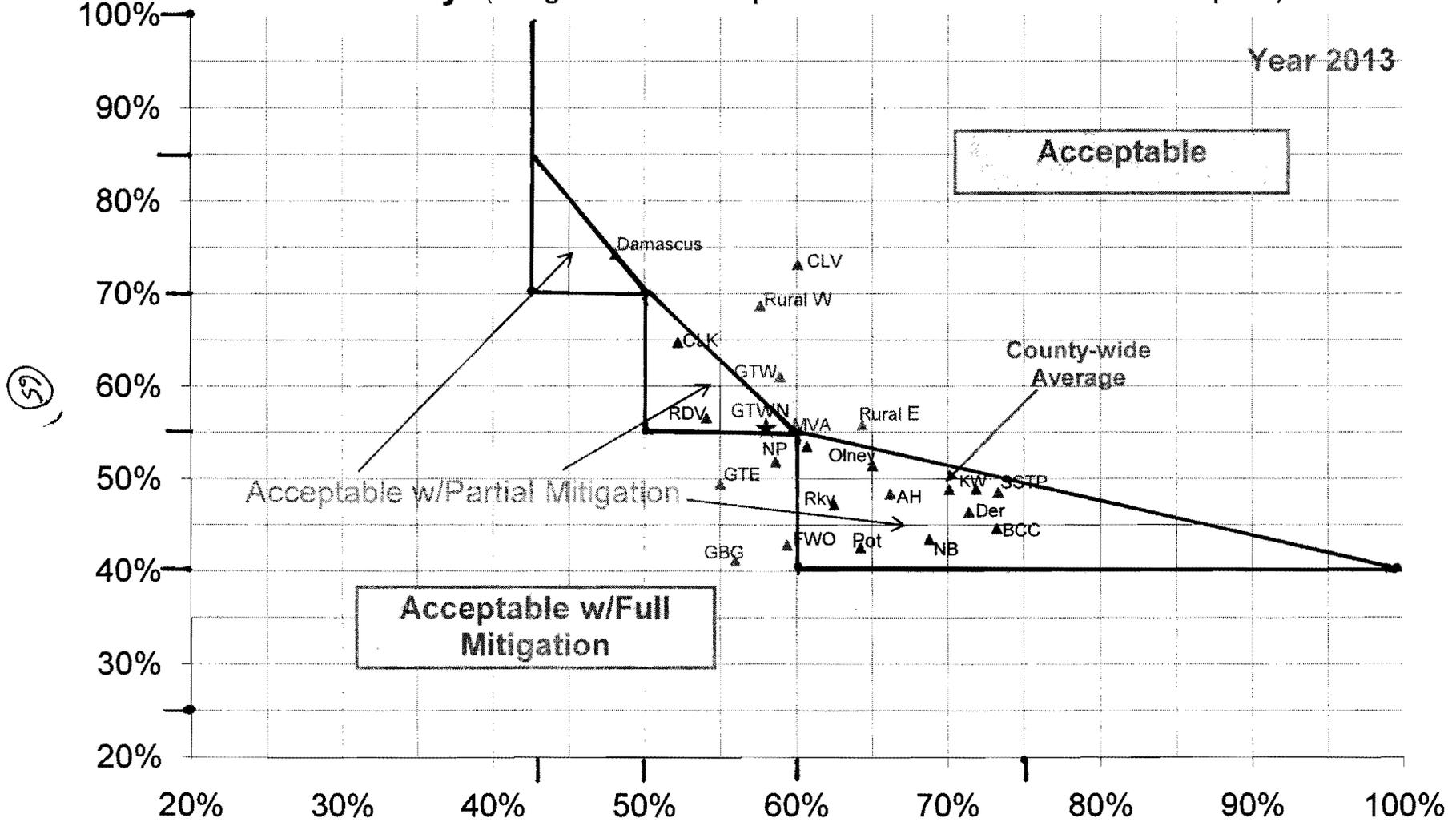
If site X is planned for 40,000 jobs and assumes a 25% modal split, then road system must be adequate for 30,000 employee trips.

If the same site held 60,000 jobs but achieved a modal split with 50% SOVs, then the number of trips the road system would have to handle is 30,000 employee trips.

The same infrastructure can handle a 50% increase in jobs if we achieve a higher modal split. Its the cheapest way to expand capacity, requires fewer road improvements and allows impact fees and transportation mitigation fees to be focused on providing mass transit capacity.

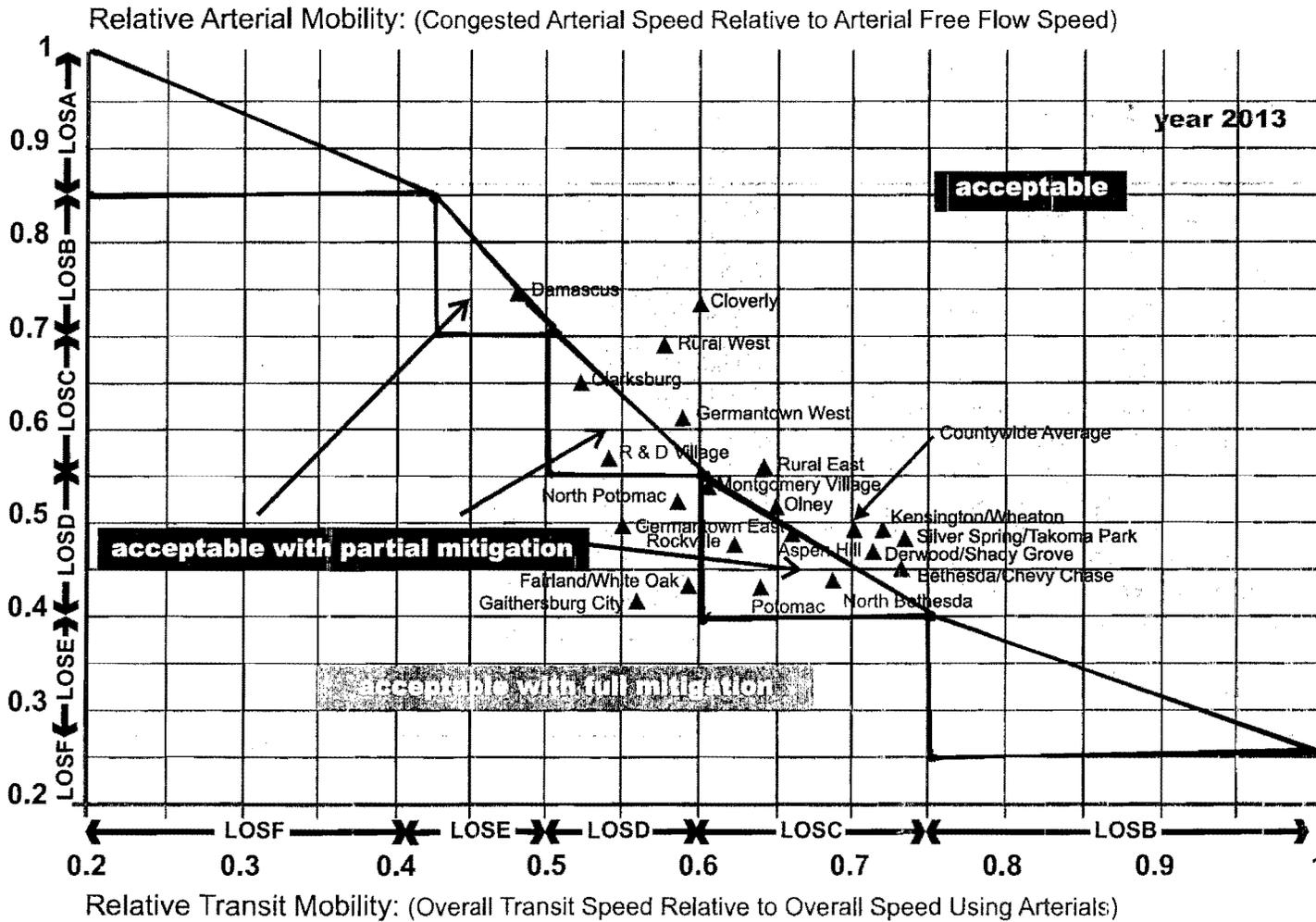
Year 2013 PAMR Chart

Relative Arterial Mobility: (Congested Arterial Speed Relative to Arterial Free Flow Speed)



Relative Transit Mobility: (Overall Transit Speed Relative to Overall Speed Using Arterials)

Year 2013 PAMR chart with "symmetrical" level of service standards

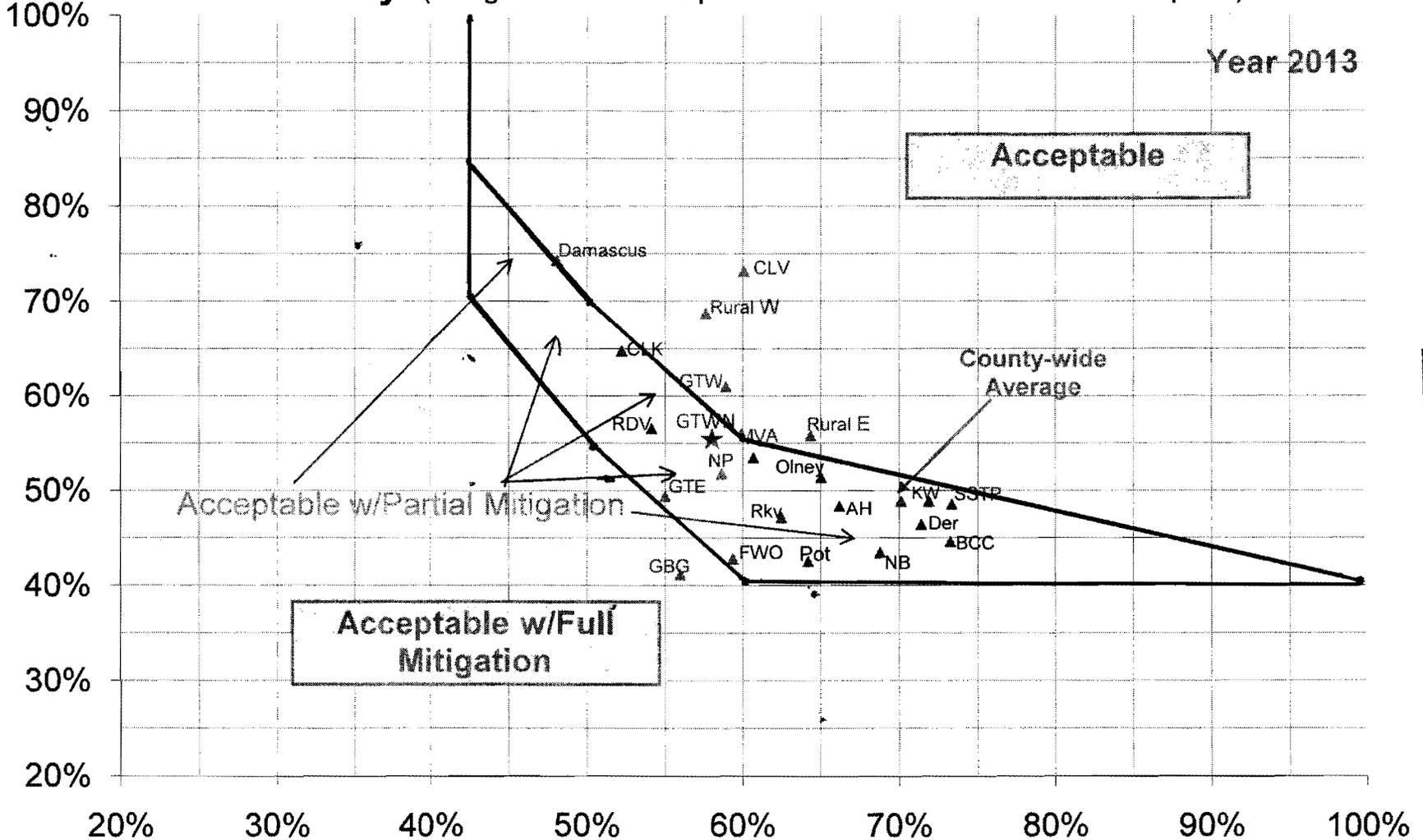


(66)

Options 3 & 4

Year 2013 PAMR Chart

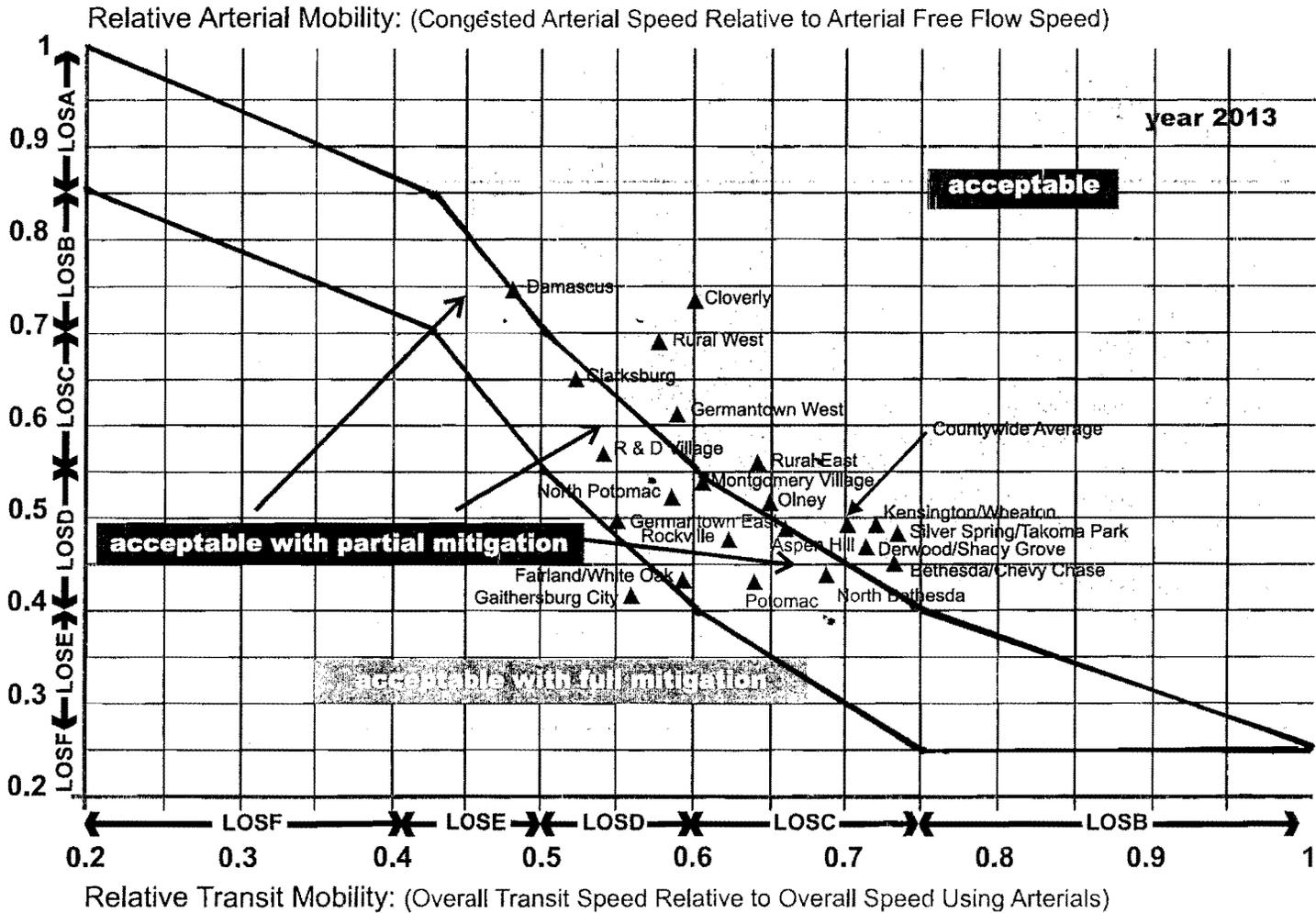
Relative Arterial Mobility: (Congested Arterial Speed Relative to Arterial Free Flow Speed)



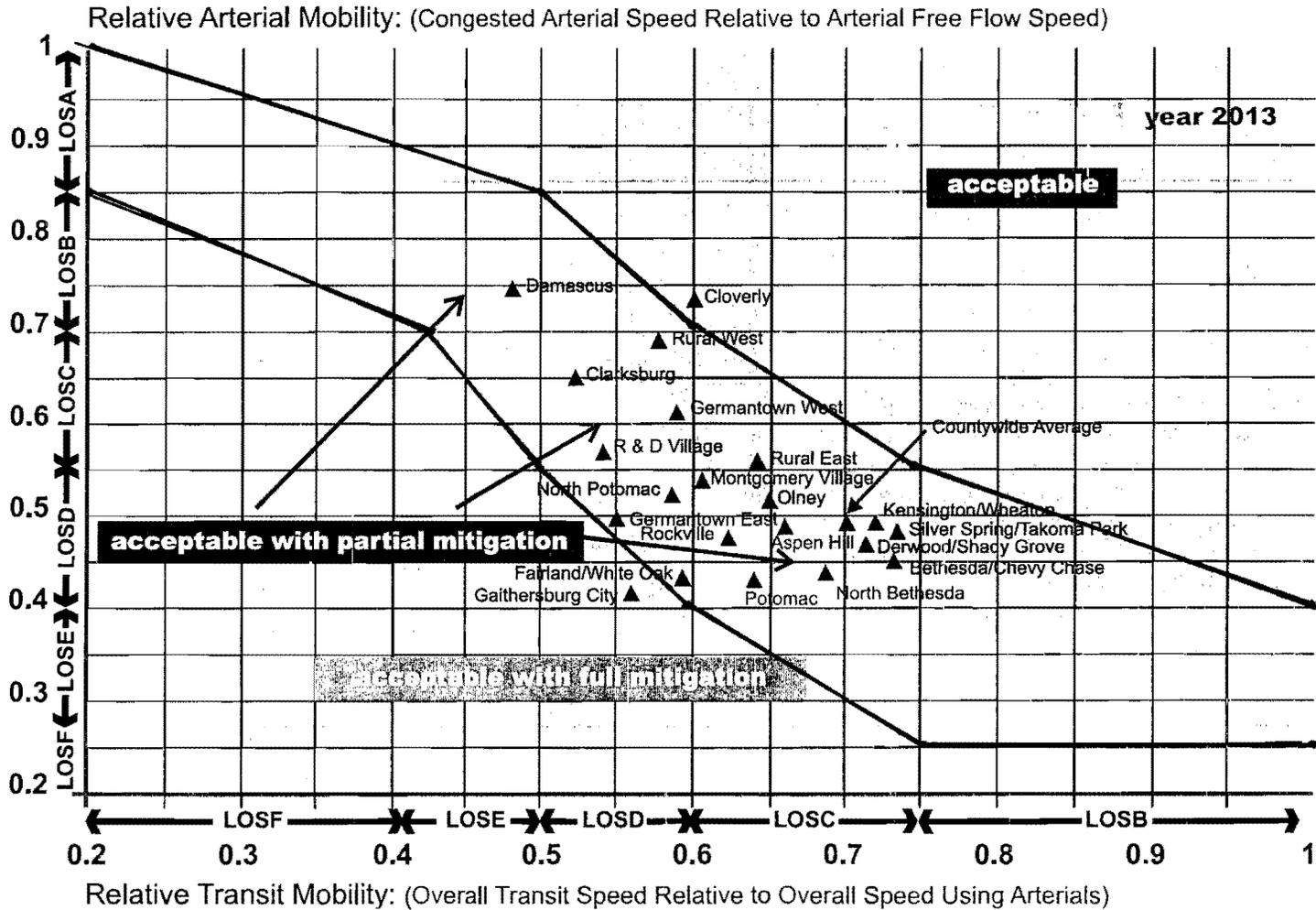
Relative Transit Mobility: (Overall Transit Speed Relative to Overall Speed Using Arterials)

Year 2013 PAMR chart with "symmetrical" level of service standards

(68)



Year 2013 PAMR chart with "symmetrical" level of service standards



(69)

OPTION 7



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

ROGER BERLINER
COUNCILMEMBER
DISTRICT 1

MEMORANDUM

TO: Phil Andrews
Council President

FROM: Roger Berliner *RB*
Council-Vice President

DATE: October 23, 2009

SUBJECT: PAMR and the Annual Growth Policy

Over the past several months, I have been working to find an improvement to PAMR that would be used until we have a new policy area review test for transportation. As Council staff's packet notes, I have facilitated discussions with stakeholders and Planning staff, and we developed three concepts that I believe should be incorporated into the PAMR Chart:

1. ***The boundary line between partial mitigation and full mitigation should be a diagonal line, not stair steps.*** As has been noted, the closer a policy area is to the lower-left corner of the chart, the worse the mobility; therefore, the degree of required mitigation should be related to how close that area is to the lower-left corner. The stair step boundary contains anomalies, such as the fact that a development in North Potomac is required to mitigate 100% of its trips, while a development in Potomac must mitigate only 40% of its trips, even though each is approximately equidistant from the lower-left corner. A diagonal line connecting the bottom of each stair-step would eliminate these anomalies.
2. ***The range for partial mitigation should not be 5-45%, but 10-90%.*** If a policy area has values for highway mobility and transit mobility that places it close to the boundary for full (100%) mitigation, then its partial mitigation requirement should be 80-90%, not 40-45%. Under the current scheme, a small change in mobility can shift an area from 45% to 100%, or vice versa.
3. ***Cap the change in mitigation at 10%.*** A concern I have heard from several stakeholders is that mitigation requirements have often changed drastically from one year to the next. They are looking for more predictability. Borrowing the "collar" concept from energy regulation, I recommend that regardless of the changes suggested by points (1) and (2), above, that the mitigation requirement in any policy area not be increased by more than 10% from the requirement currently in effect.

(70)

I do not support the Planning Board’s proposal, adopted by the Committee, to add a stair-step to the PAMR chart that would allow highway mobility to slip to Level of Service E if transit mobility were to improve to Level of Service B. The reality is that there is no area, not one, in the County today that achieves level B transit service. And the result of assuming B for purposes of drawing a new sloping line along a B/E axis is to greatly reduce the amount of funding that could mitigate our congestion through investments in transit. Many areas requiring partial mitigation now—including most areas around Metro Stations—would require no PAMR mitigation under the Planning Board’s proposal. Moreover, by assuming good transit service when it doesn’t exist, we would actually create a disincentive for obtaining the quality of transit service we all desire. On the other hand, I would be prepared to support a B/E axis when we achieve B level of transit service, but not when it is merely hypothetical and produces real world adverse consequences.

Therefore, this leads me to the endorsement of a modification of Option 5. Option 5 contains the principles contained in points (1) and (2) above, plus a “collar” such that any mitigation requirement would not change by more than 10% from the existing requirement. A comparison of my proposal to others that have been proposed is shown in the table below:

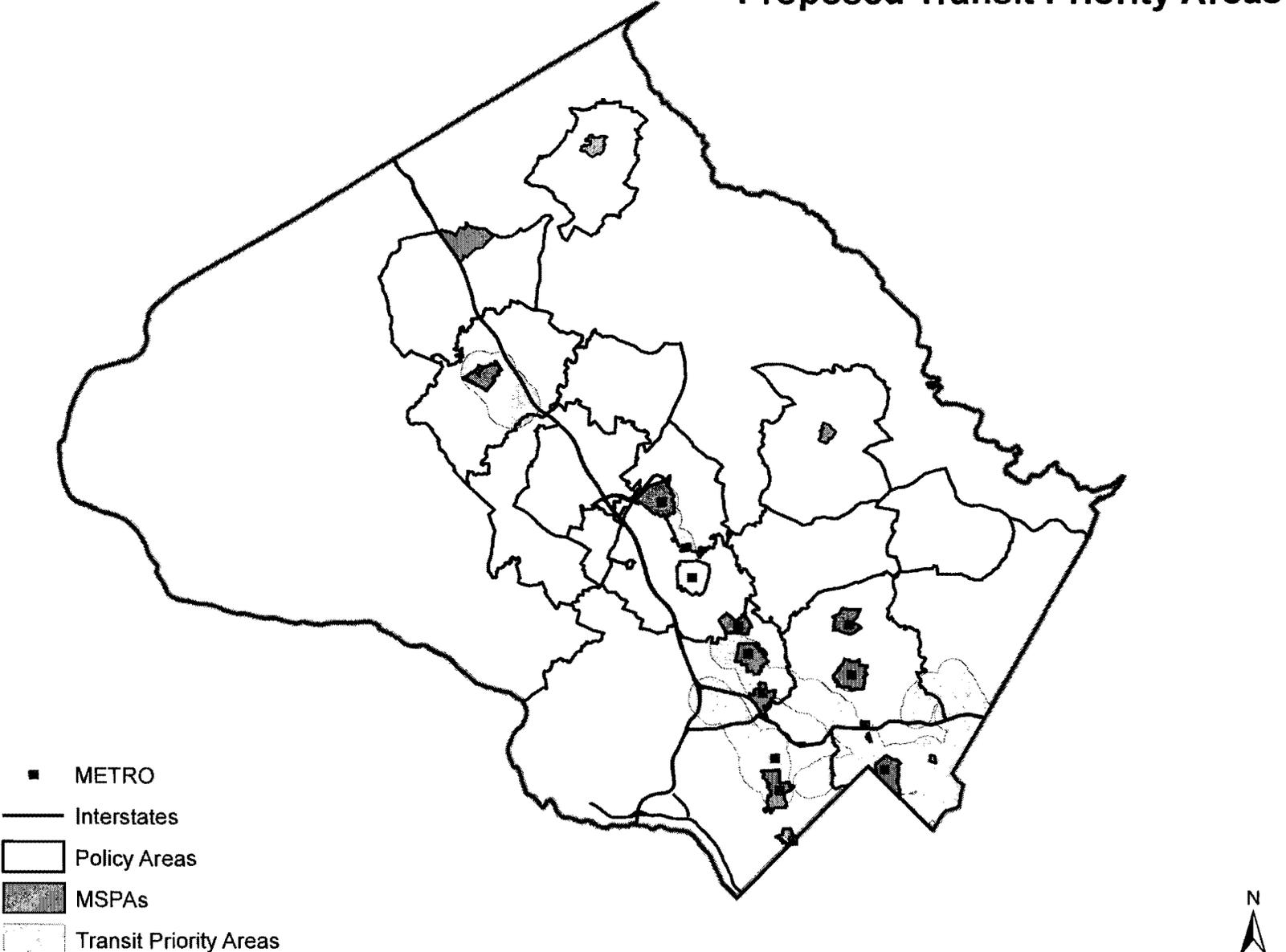
Mitigation Requirements

Policy Area	Opt. 1 Current Test	Opt. 3 Final Draft Rec.	Opt. 5 Erich Rec.	Opt. 5 Modified Berliner Rec.	Opt. 6 Chmn & Staff Rec.	Opt. 6 Modified PHFD Rec.
Aspen Hill	20%	5%	40%	30%	10%	10%
Beth.-Chevy Chase	30%	None	60%	40%	None	None
Clarksburg	10%	10%	10%	10%	10%	10%
Cloverly	None	None	None	None	None	None
Damascus	None	None	None	None	None	None
Derwood	20%	None	40%	30%	None	None
Fairland/White Oak	100%	100%	90%	90%	90%	50%
Gaithersburg City	100%	100%	100%	100%	100%	100%
Germantown East	100%	100%	90%	90%	90%	50%
Germantown West	None	None	None	None	None	None
Kensington/Wheaton	10%	None	20%	20%	None	None
Mont. Village/Airpark	5%	5%	10%	10%	10%	10%
North Bethesda	35%	20%	70%	45%	30%	30%
North Potomac	100%	100%	40%	40%	40%	40%
Olney	10%	None	20%	20%	None	None
Potomac	40%	40%	80%	50%	70%	50%
R&D Village	40%	40%	50%	50%	50%	50%
Rockville City	25%	20%	50%	35%	40%	40%
Silver Spg./Tak. Park	10%	None	20%	20%	None	None
Rural East	None	None	None	None	None	None
Rural West	None	None	None	None	None	None

CC: Glenn Orlin
Deputy Staff Director

Proposed Transit Priority Areas

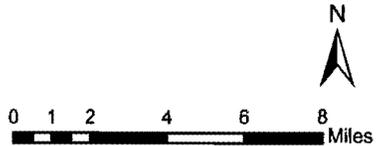
72



- METRO
- Interstates
- Policy Areas
- MSPAs
- Transit Priority Areas

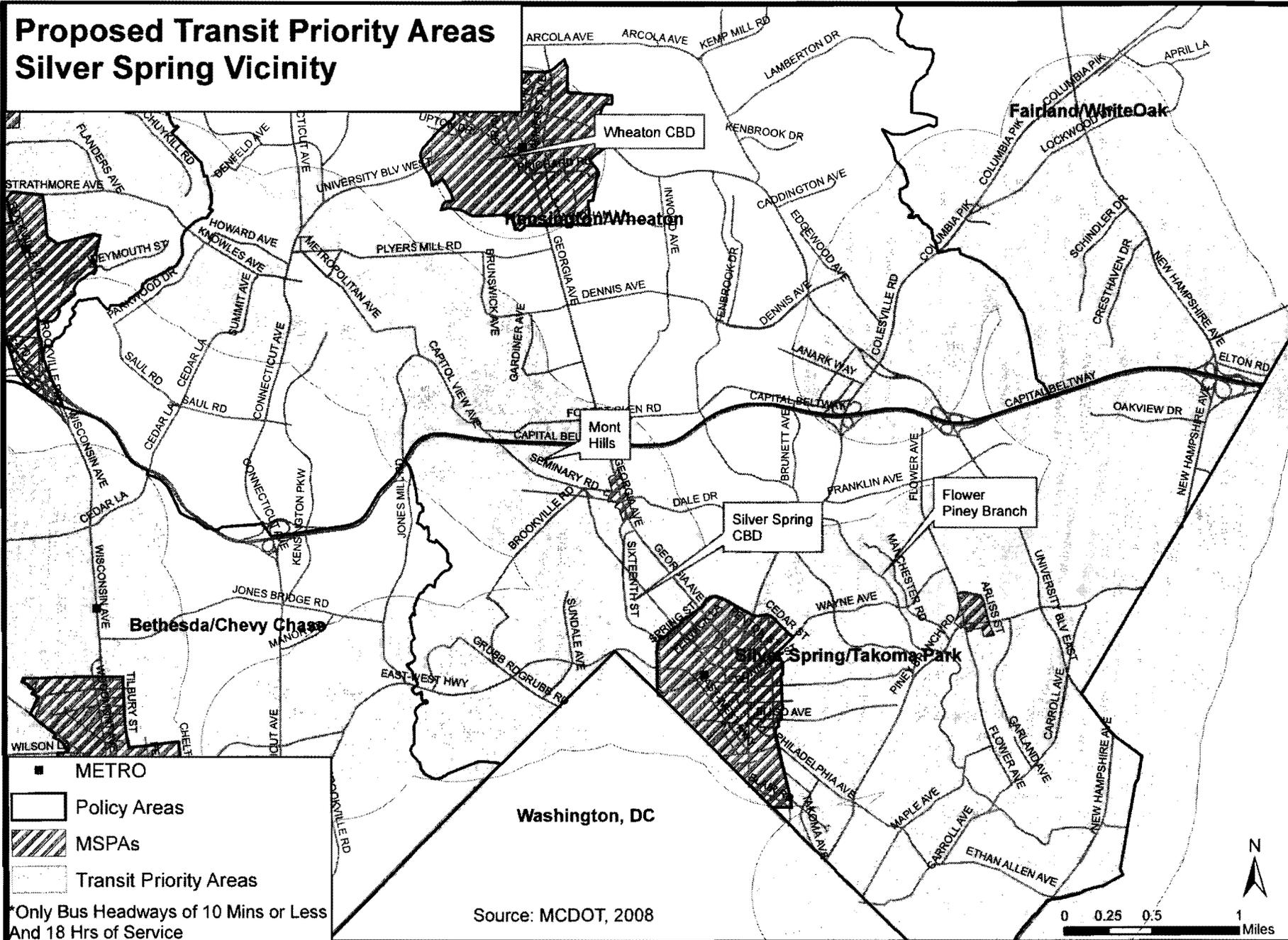
*Only Bus Headways of 10 Mins or Less
And 18 Hrs of Service

Source: MCDOT, 2008



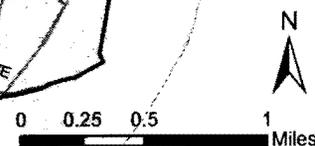
Proposed Transit Priority Areas Silver Spring Vicinity

73



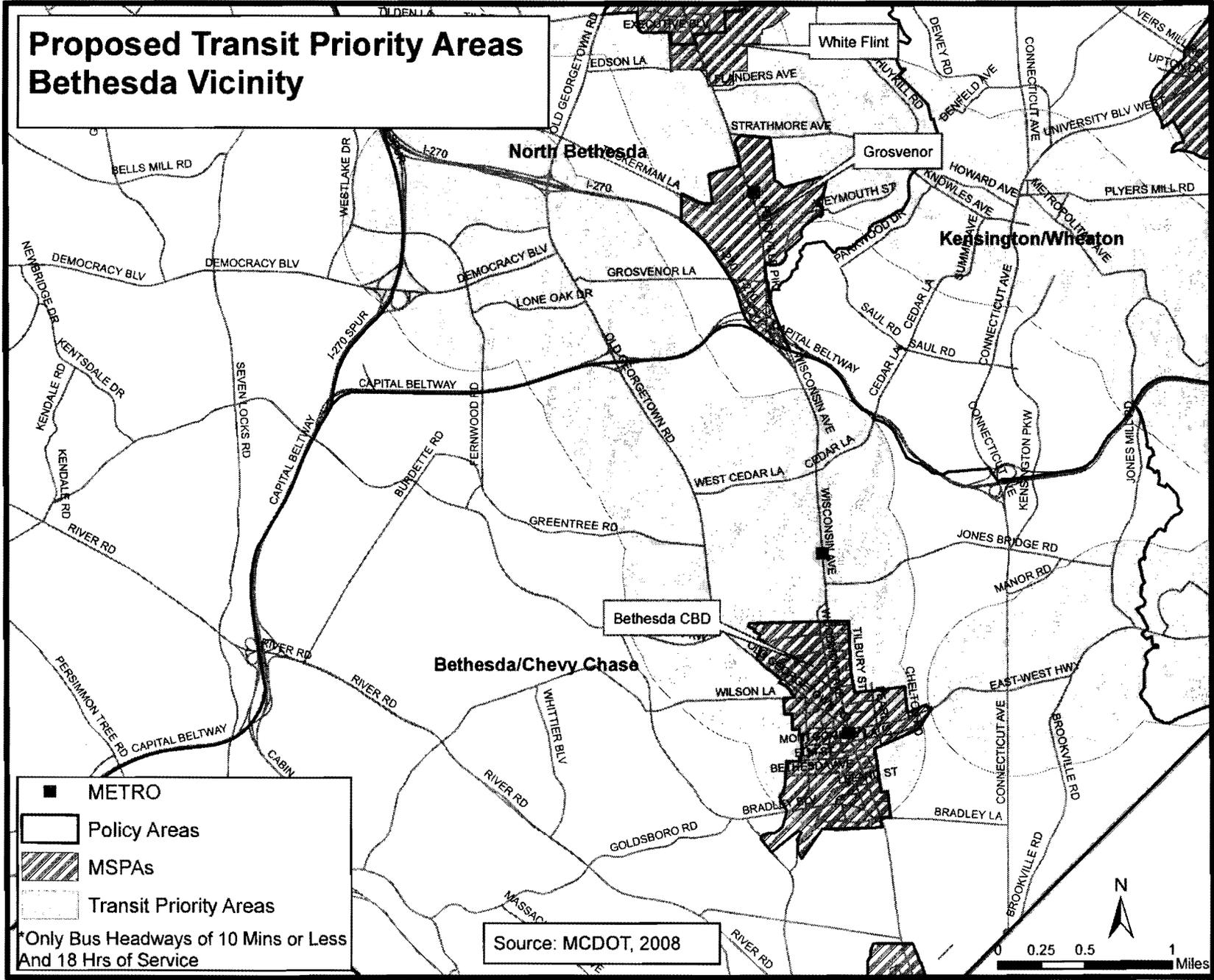
■ METRO
 □ Policy Areas
 ▨ MSPAs
 □ Transit Priority Areas
 *Only Bus Headways of 10 Mins or Less
 And 18 Hrs of Service

Source: MCDOT, 2008



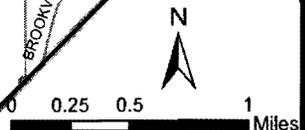
Proposed Transit Priority Areas Bethesda Vicinity

74



■ METRO
 Policy Areas
 MSPAs
 Transit Priority Areas
 *Only Bus Headways of 10 Mins or Less
 And 18 Hrs of Service

Source: MCDOT, 2008

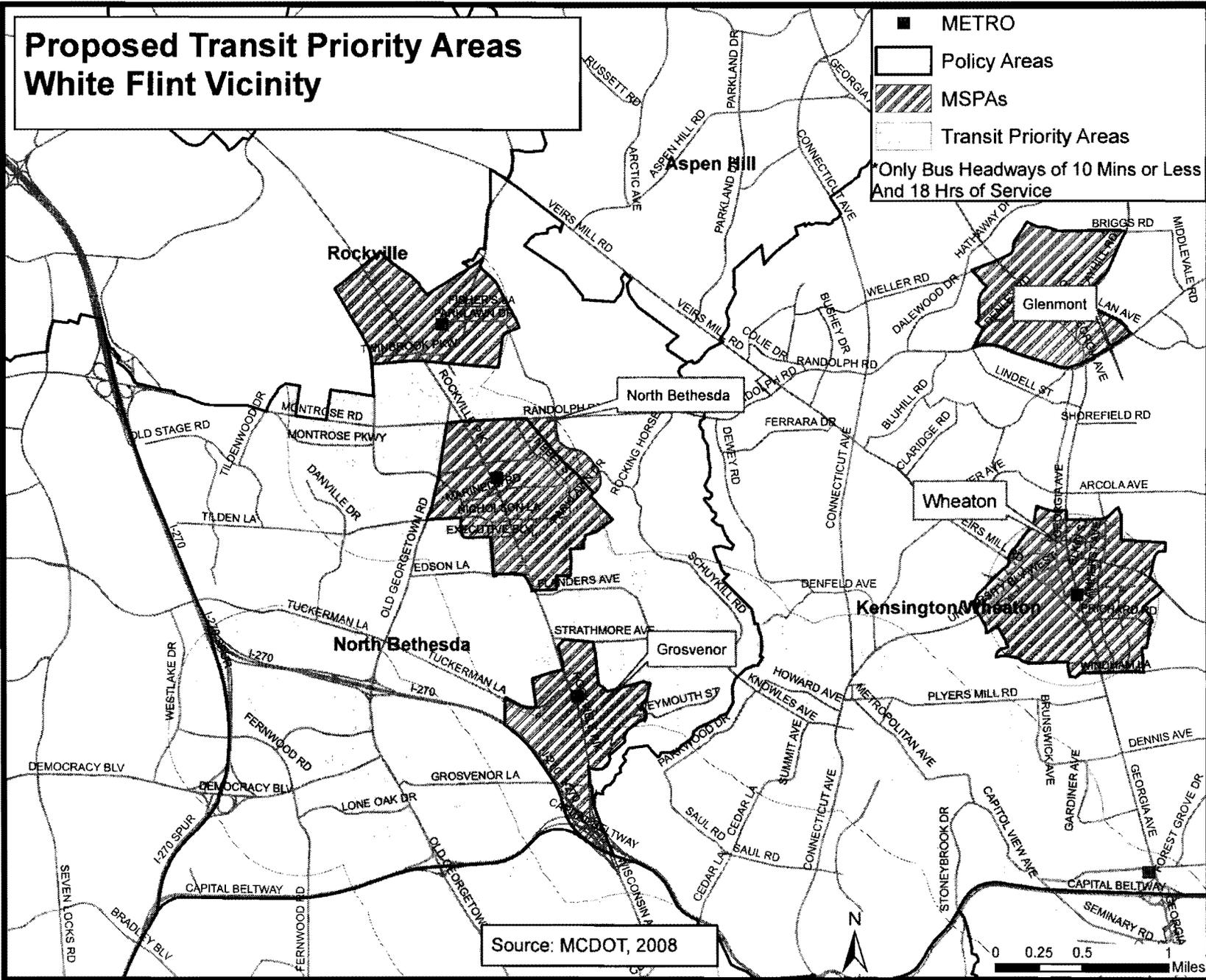


Proposed Transit Priority Areas White Flint Vicinity

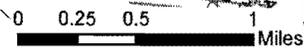
- METRO
- Policy Areas
- ▨ MSPAs
- ▤ Transit Priority Areas

Only Bus Headways of 10 Mins or Less
And 18 Hrs of Service

75

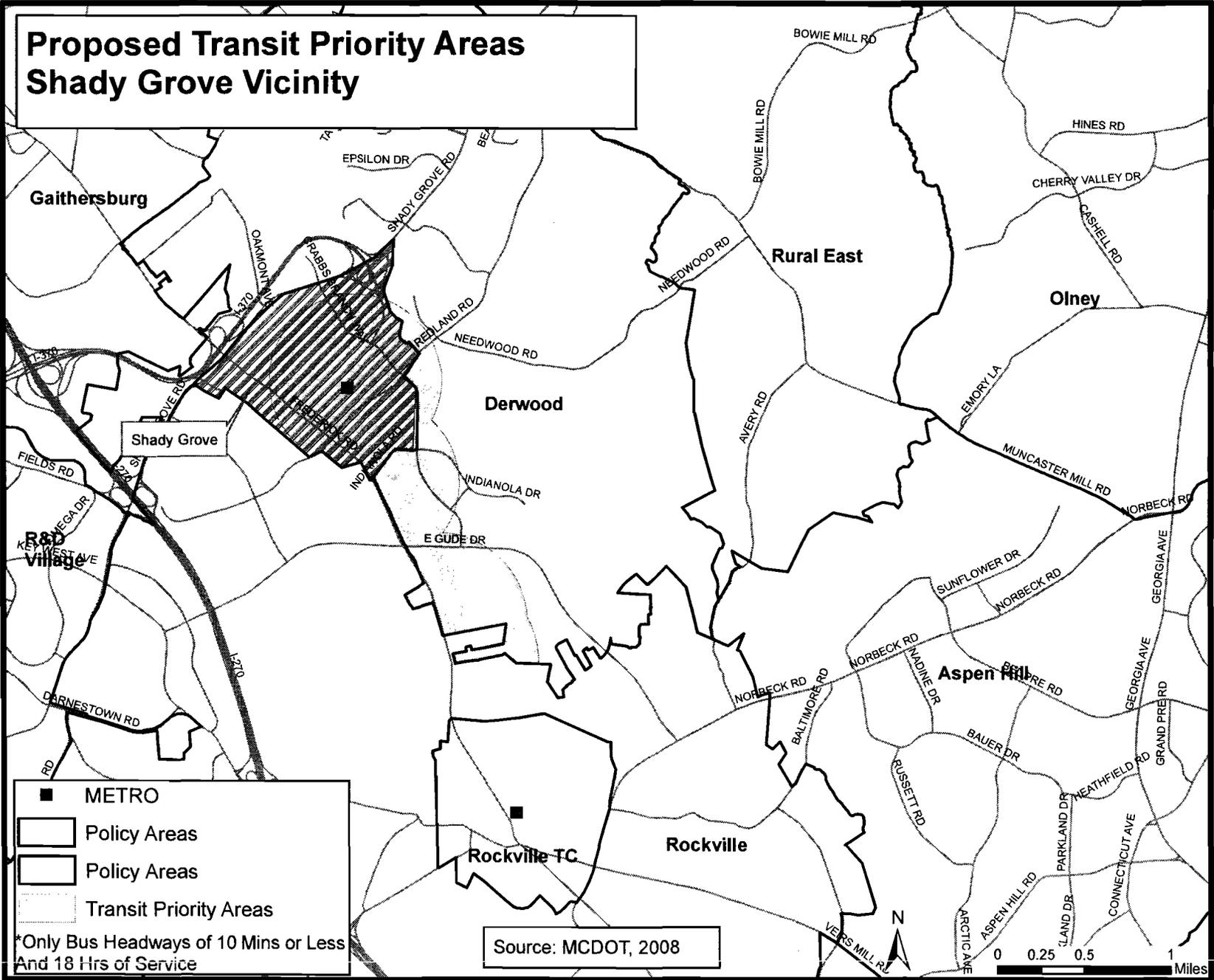


Source: MCDOT, 2008



Proposed Transit Priority Areas Shady Grove Vicinity

7L

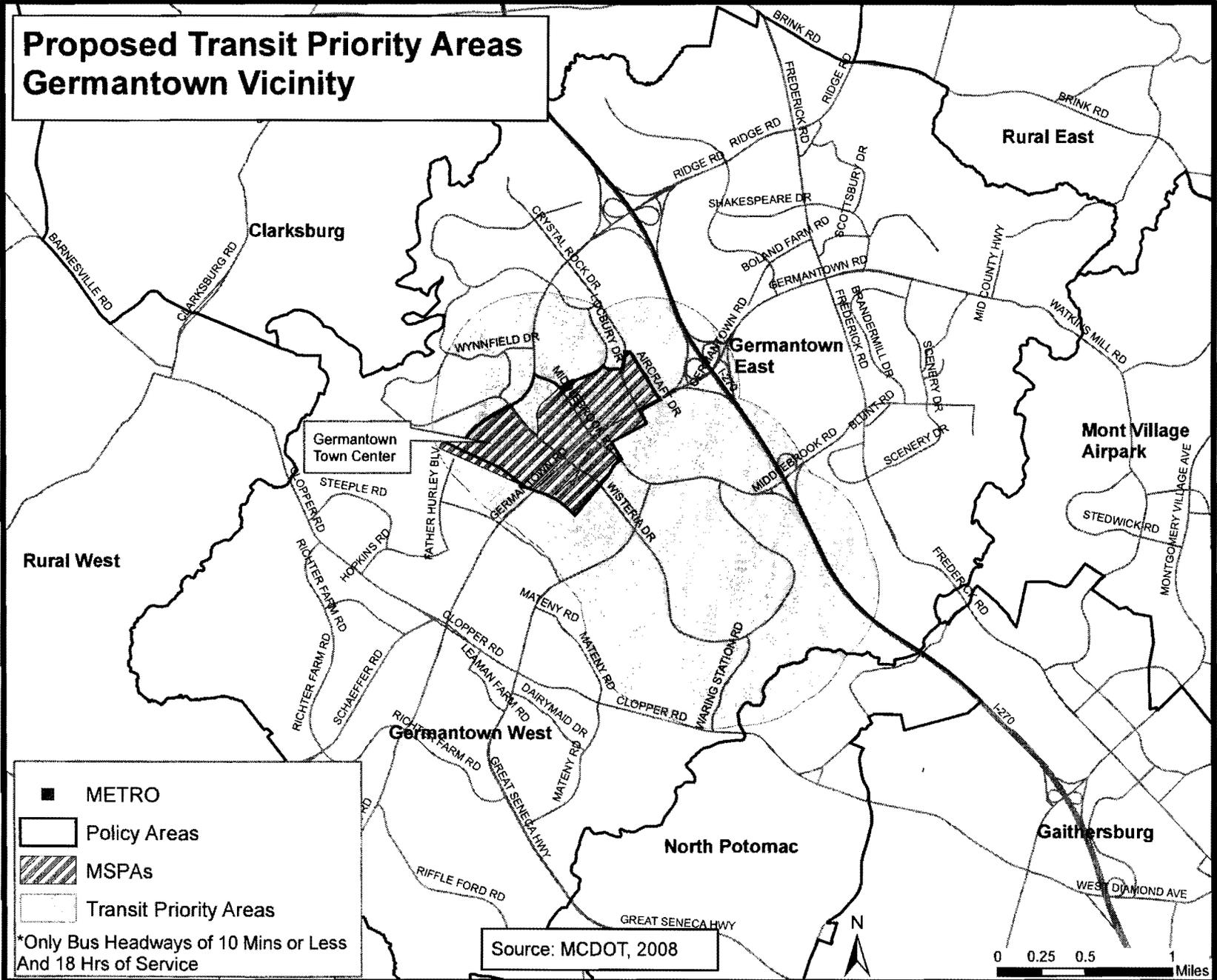


- METRO
 - ▭ Policy Areas
 - ▭ Policy Areas
 - ▨ Transit Priority Areas
- *Only Bus Headways of 10 Mins or Less
And 18 Hrs of Service

Source: MCDOT, 2008

Proposed Transit Priority Areas Germantown Vicinity

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

October 22, 2009

Mike Knapp, Chair
Planning, Housing, and Economic Development Committee
Council Office Building
100 Maryland Ave., 6th floor
Rockville, MD 20850

RE: Growth Policy – Relationship of LATR Improvements to PAMR Mitigation

Dear Mr. Knapp:

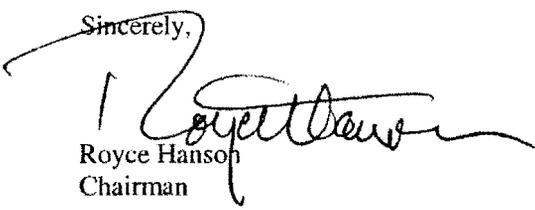
At the October 20 PHED Committee meeting on Growth Policy the Committee discussed changes to PAMR that resulted from a working group of stakeholders that Councilmember Roger Berliner had convened. One additional concept that the Planning staff supported in those group discussions was to allow intersection improvements required as a result of LATR to also be credited toward PAMR mitigation at the proposed value \$11,000 per vehicle trip.

This concept was not part of the 2007 Growth Policy because the countywide PAMR test is not sensitive to individual intersection improvements such as the addition of a turn lane. However, the acceptance of an \$11,000 per vehicle trip policy provides a medium for such an exchange. The allowance of an already-required LATR improvement to satisfy PAMR mitigation is consistent with the existing practice in the Planning Board's LATR and PAMR Guidelines to allow a single offsite non-auto facility such as a sidewalk or bike path to be simultaneously applied to both LATR and PAMR requirements.

However, this change to the Planning Board's LATR and PAMR Guidelines would also require a change to the Growth Policy adopted by the County Council. A new sentence in Section TP3, Mitigation for Applications in Policy Areas with Inadequate PAMR, should be added stating: "An applicant who is conditioned to make an intersection improvement to satisfy TL Local Area Transportation Review may apply the cost of those improvements toward satisfying PAMR requirements based on the capital cost of the improvements made."

Please let Dan Hardy or me know if you have any questions regarding this proposal. We look forward to continuing the Growth Policy discussions with the County Council next week.

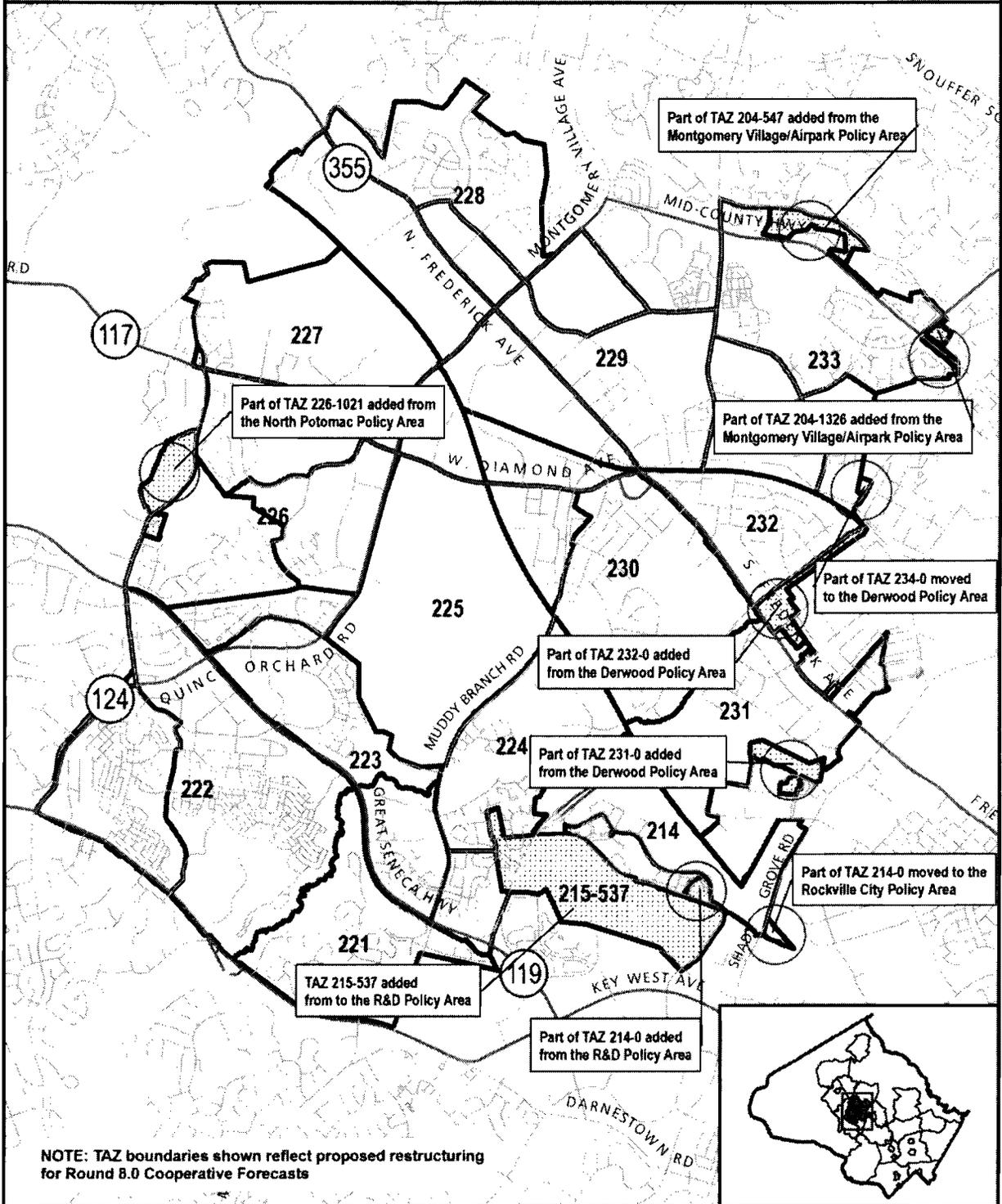
Sincerely,


Royce Hanson
Chairman

78

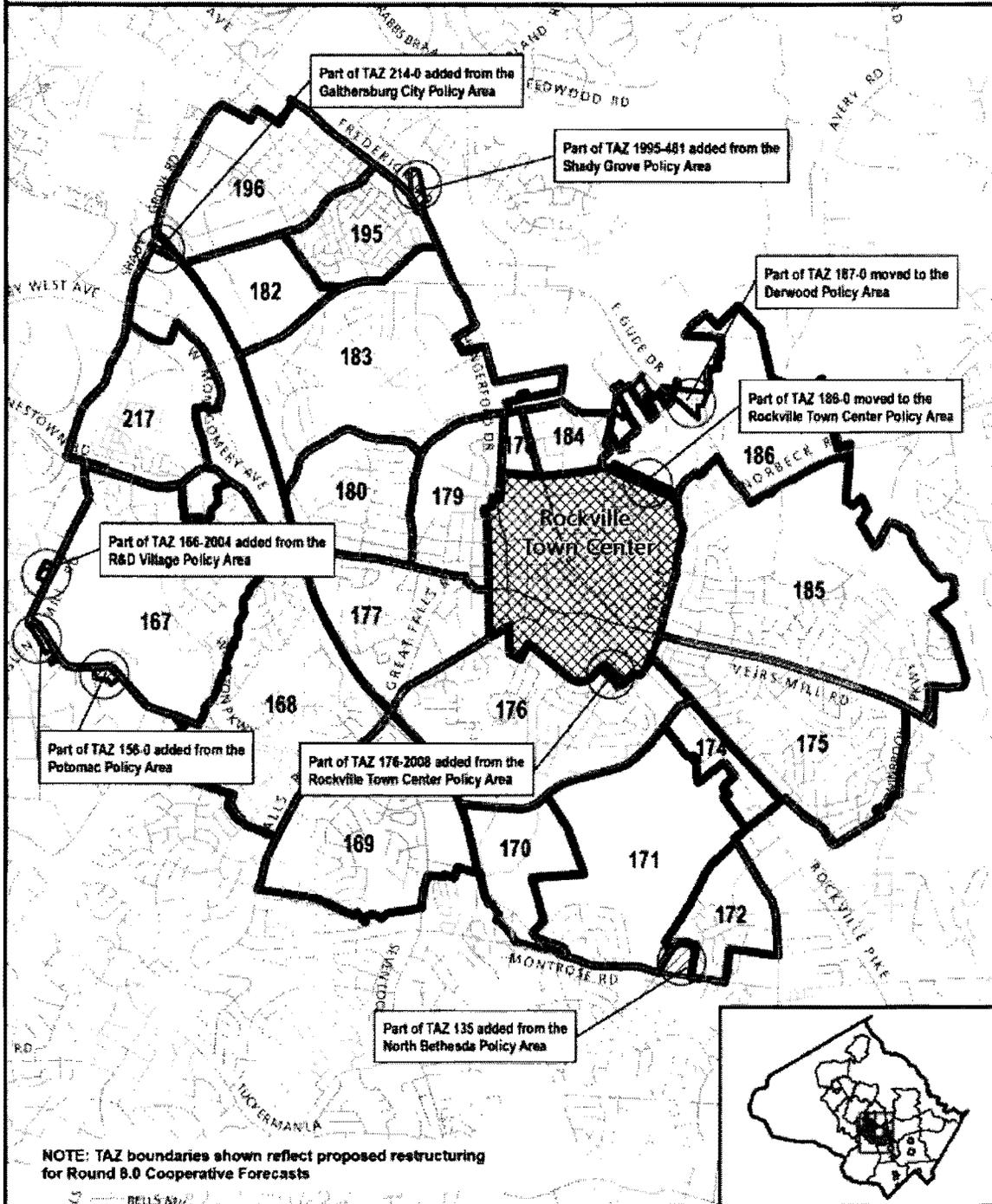
Gaithersburg City Policy Area with Traffic Zones

MAP 10



Rockville City Policy Area with Traffic Zones

MAP 24



LINOWES
AND BLOCHER LLP
ATTORNEYS AT LAW

September 22, 2009

C. Robert Dalrymple
301.961.5208
bdalrymple@linowes-law.com
Anne C. Martin
301.961.5127
amartin@linowes-law.com

The Honorable Phil Andrews, President
Montgomery County Council
100 Maryland Avenue, 6th Floor
Rockville, Maryland 20850

Hand Delivered

Re: 2009-2011 Planning Board Draft Growth Policy ("Growth Policy");
Twinbrook Metro Station Policy Area Boundary

Dear Council President Andrews and Members of the County Council:

On behalf of Fishers Lane LLC and its affiliate entities, the owners of 22+/- acres in the Twinbrook Sector Plan area, including the Parklawn Building and the associated surface parking lot areas (the "Parklawn Properties"), we respectfully request that the County Council, sitting as the District Council (the "Council"), include the Twinbrook Sector Plan area (including the Parklawn Properties) in the policy area boundary changes included in Recommendation No. 7 of the Growth Policy (Page 45 of Growth Policy). After recently recognizing and questioning the omission of the adjustment to the Twinbrook Metro Station Policy Area (the "Twinbrook MSPA") along with the boundary adjustments for other pending or recently approved Sector Plan amendments in the Growth Policy, we understand that it was omitted because the adjustment was not specifically referenced in the recently adopted Twinbrook Sector Plan. However, the Council intentionally did not reference the boundary adjustment in the Twinbrook Sector Plan because it was intended to be addressed solely as part of the Growth Policy. Therefore, we request that the Council, now as part of the Growth Policy, adjust the Twinbrook MSPA boundary to include the portion of the Parklawn Properties that was added to the new Twinbrook Sector Plan boundary and included in the TMX-2 zoning recommendations of the Twinbrook Sector Plan. As explained in detail below, the requested boundary adjustment to include all of the Parklawn Properties in the Twinbrook MSPA is consistent with both the Twinbrook Sector Plan recommendations and the Growth Policy objectives.

The new Twinbrook Sector Plan, adopted and approved on January 21, 2009, expanded the 1992 Twinbrook Sector Plan boundary and recognized the expanded area as a "Transit Station Development Area" based on the proximity to the Metro Station. For reference, an excerpt of the Twinbrook Sector Plan showing the new Sector Plan boundary is attached as Exhibit "A".

The Honorable Phil Andrews, President
September 22, 2009
Page 2

This expansion included a 8.4± acre portion of the Parklawn Properties known as the north parking lot that was in the R-200 zone, as well as a 1.59± acre portion of the Parklawn Properties immediately east of the Parklawn Building with surface parking and a daycare center that was in the R-90 and R-200 zone (combined, the “Northeast Parklawn Property”). A copy of the Twinbrook Sector Plan excerpt referenced above with the Northeast Parklawn Property highlighted is attached as Exhibit “B”. The Parklawn Properties, including the Northeast Parklawn Property, are in the “Technology and Employment Area” of the Twinbrook Sector Plan and were rezoned by the Council on June 23, 2009, to the new TMX-2 (Transit-Oriented Mixed Use) zone as recommended. The recommendations for the Technology Employment Area note the proximity to the Metro Station, the significant development potential, and the high-quality urban environment with improved pedestrian and vehicle connections and public spaces. The Twinbrook Sector Plan further specifically references the benefit of the addition of the Northeast Parklawn Property to create incentives for redevelopment, including significant public improvements of public spaces and pedestrian and vehicle connections, and to keep the existing Parklawn Building viable, with a renovation and extension of the GSA lease or with a new mix of uses.

The Planning Board Staff and Council Staff were supportive of adjusting the Twinbrook MSPA boundary at the time of the Twinbrook Sector Plan review and provided the Council with “a heads-up and put that recommendation on the record;” however, the Council was advised that the adjustment was not appropriate to be considered at the time of the Twinbrook Sector Plan. Instead, the Council agreed that the proposed Twinbrook MSPA boundary adjustment would be considered at the time of the Growth Policy. We have confirmed this with both Council Staff and Planning Board Staff.

Therefore, we request that the Council adjust the Twinbrook MSPA boundary as part of the Growth Policy to include this Northeast Parklawn Property portion of the Parklawn Properties that is part of the “Technology Employment Area” of the Twinbrook Sector Plan and in the TMX-2 zone. A copy of the Twinbrook Policy Area Map with the Northeast Parklawn Property highlighted and the adjusted boundary shown is attached as Exhibit “C”. This adjustment will make the MSPA boundary consistent with the boundary of the Parklawn Properties and will remove the haphazard line bifurcating the various parcels under single ownership. Further, the adjustment will eliminate any uncertainty with respect to the applicable policy area designations, and thus maintain the incentive and viability for the desired transit-oriented redevelopment of this important site. The Twinbrook MSPA boundary adjustment is consistent with the transit-oriented vision of the Twinbrook Sector Plan, the specific employment and redevelopment recommendations for the Parklawn Properties (including pedestrian and vehicular connections

The Honorable Phil Andrews, President
September 22, 2009
Page 3

between Parklawn Drive, Fishers Lane and Twinbrook Parkway), and the Growth Policy vision and specific recommendation to adjust boundaries to be consistent with pending (or recently approved) Sector Plans.

Thank you for your consideration of our request to adjust the Twinbrook MSPA boundary to be consistent with the Twinbrook Sector Plan and include this Northeast Parklawn Property portion of the Parklawn Properties.

Very truly yours,

LINOWES AND BLOCHER LLP



C. Robert Dalrymple

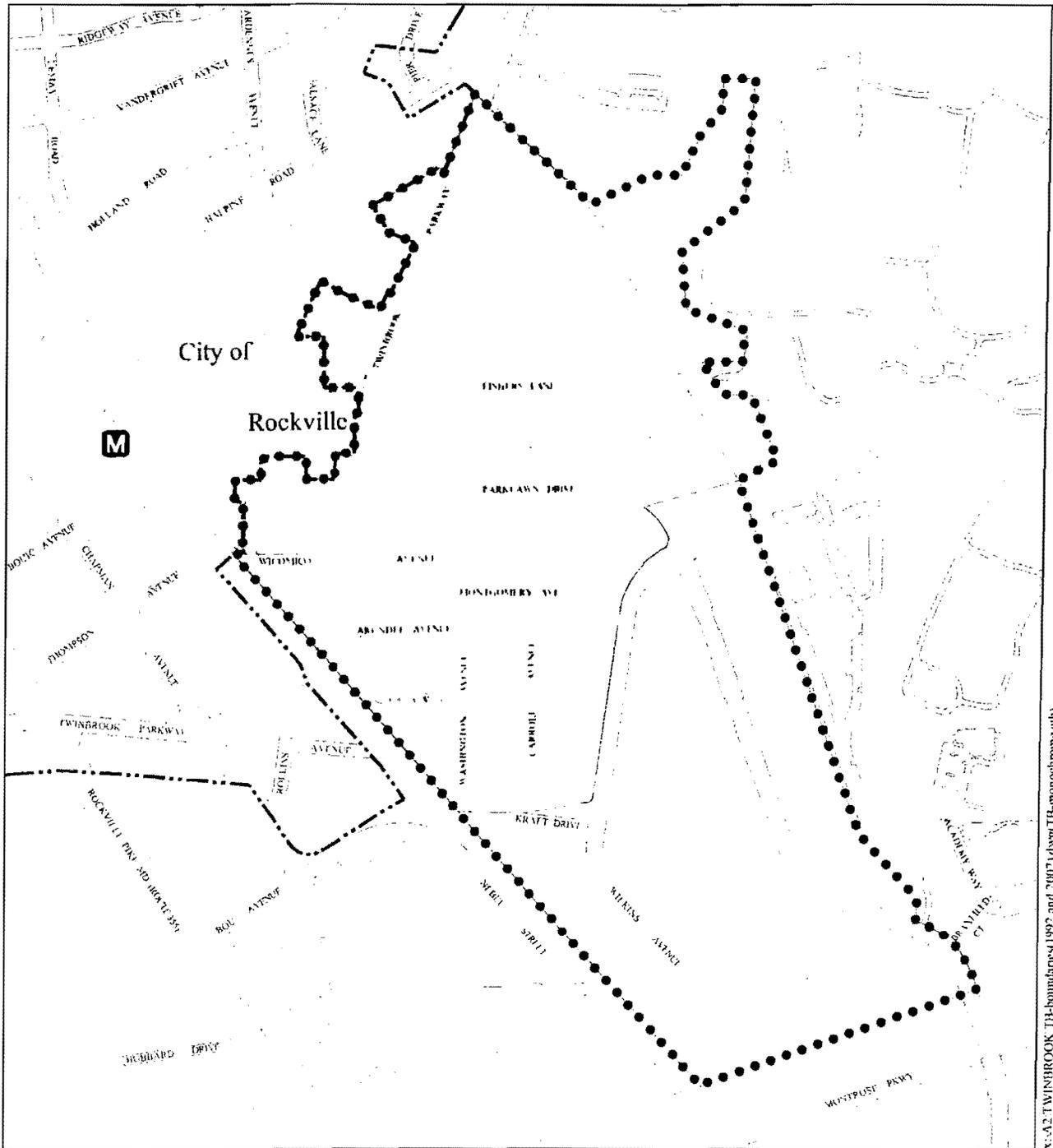


Anne C. Martin

Enclosures

cc: County Council Members
The Honorable Isiah Leggett
~~The Honorable Royce Hanson~~
~~Dr. Glenn Orlin~~
John Carter
Kristin O'Connor
Dan Hardy
Mordy Schron

Sector Plan Boundaries



v:\A2 TWINBROOK TB-boundaries\1992 and 2007\dwg\TB-monochrome.ctb

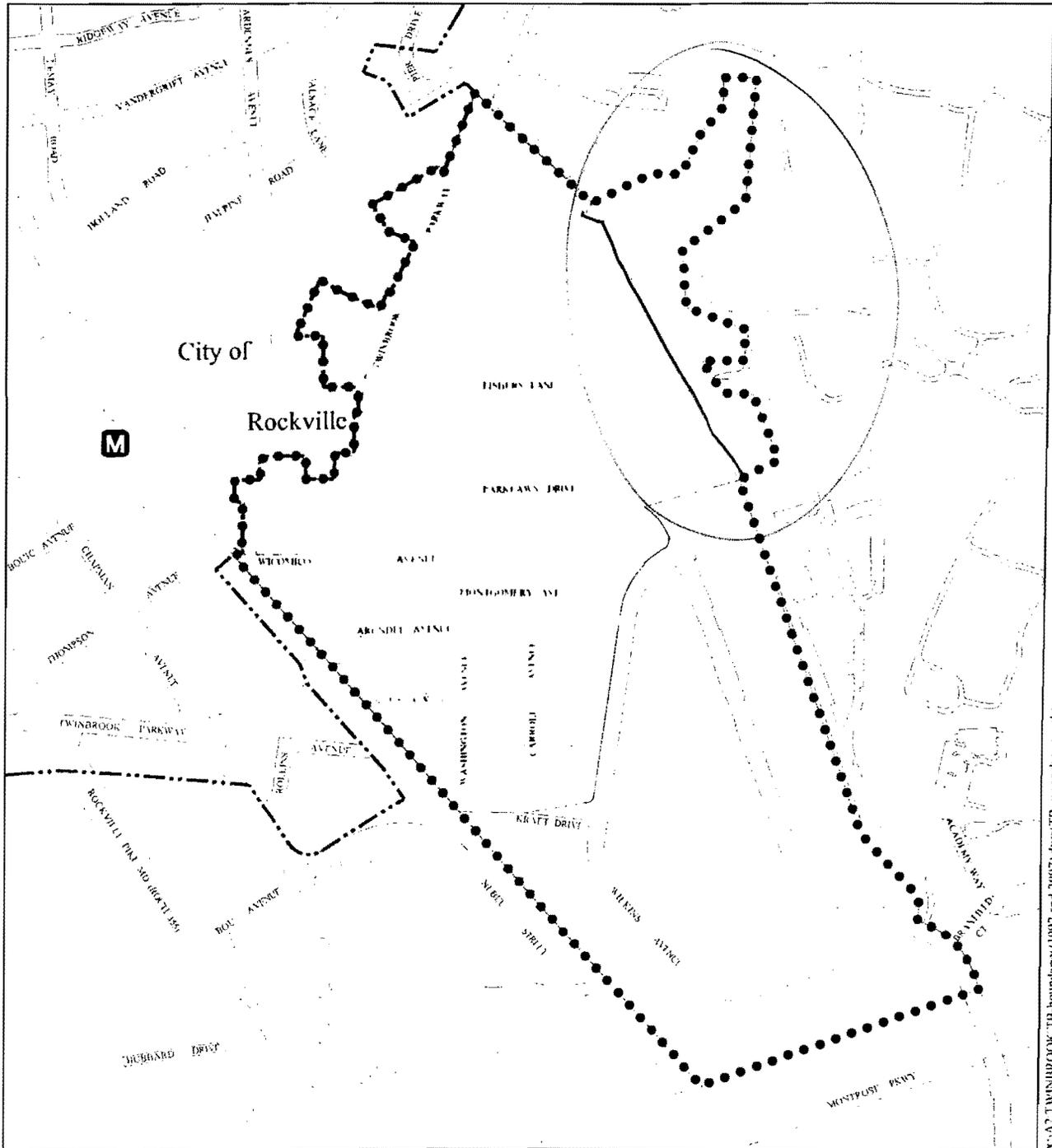
- M** Metro Station
- City of Rockville
- - - - 1992 Sector Plan Boundary
- 2008 Sector Plan Boundary

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EXHIBIT A



Sector Plan Boundaries



V:\A2-TWINBROOK-TB-boundaries\1992 and 2007\tdvgt\TD-monochrome.ctb

M Metro Station

--- City of Rockville

- - - 1992 Sector Plan Boundary

•••• 2008 Sector Plan Boundary

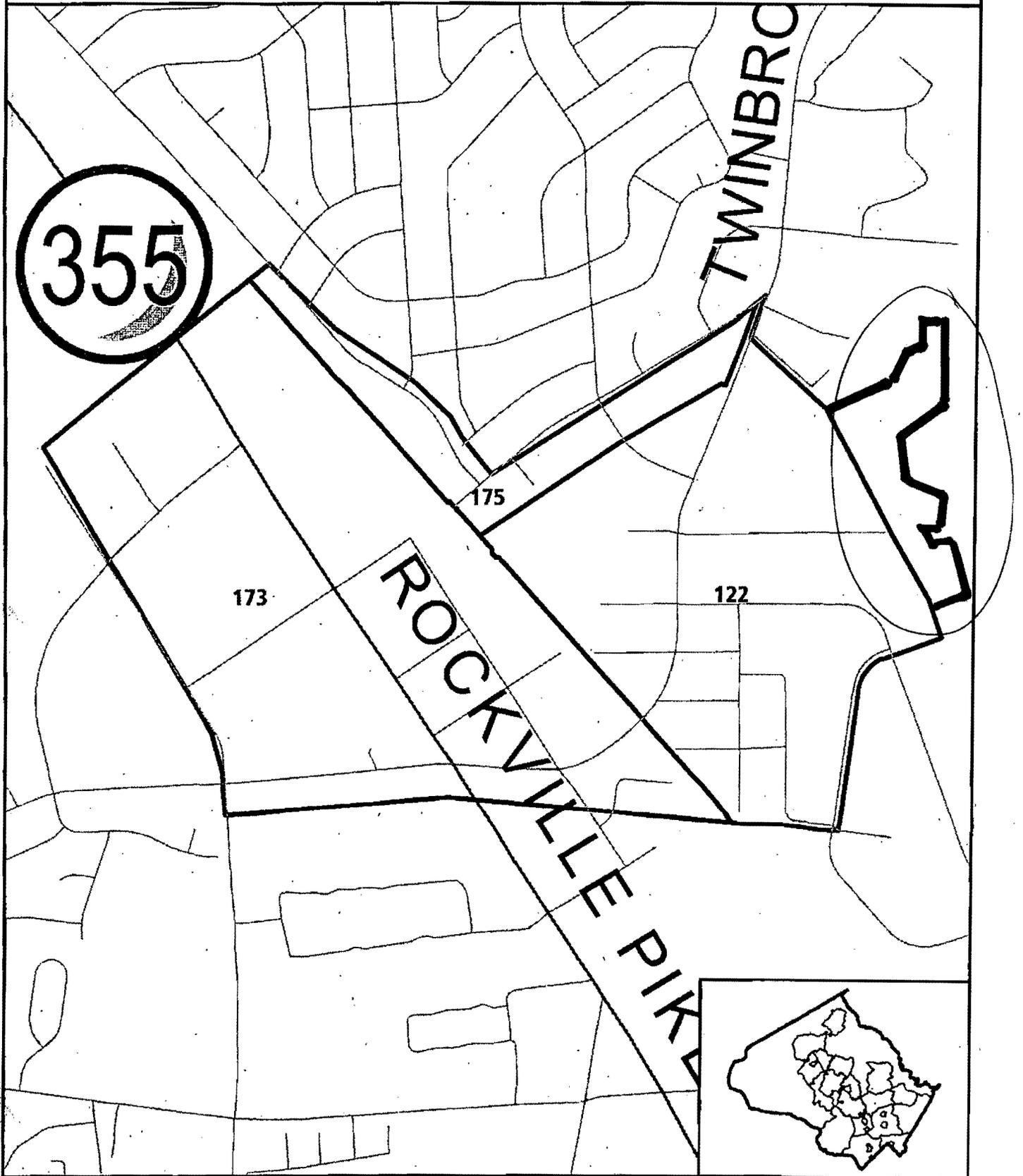
85

EXHIBIT B



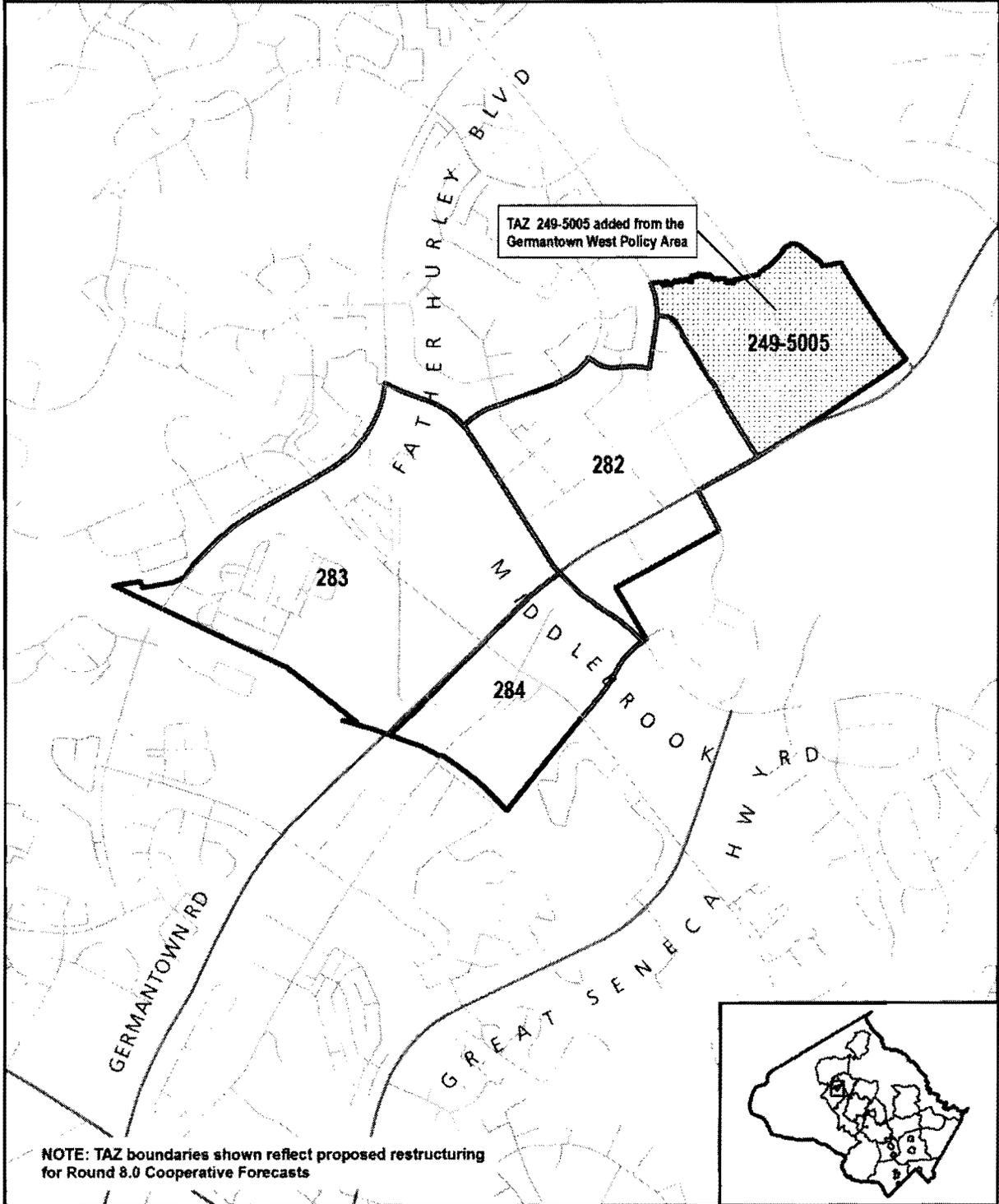
Twinbrook Policy Area with Traffic Zones

MPAC/PC
MONTGOMERY COUNTY DEPARTMENT OF PARK & PLANNING
THE COMPACTED NATIONAL CAPITAL PLANNING COMMISSION
3001 FARMERS MARKET, 4TH FLOOR, GAITHERSBURG, MD 20878



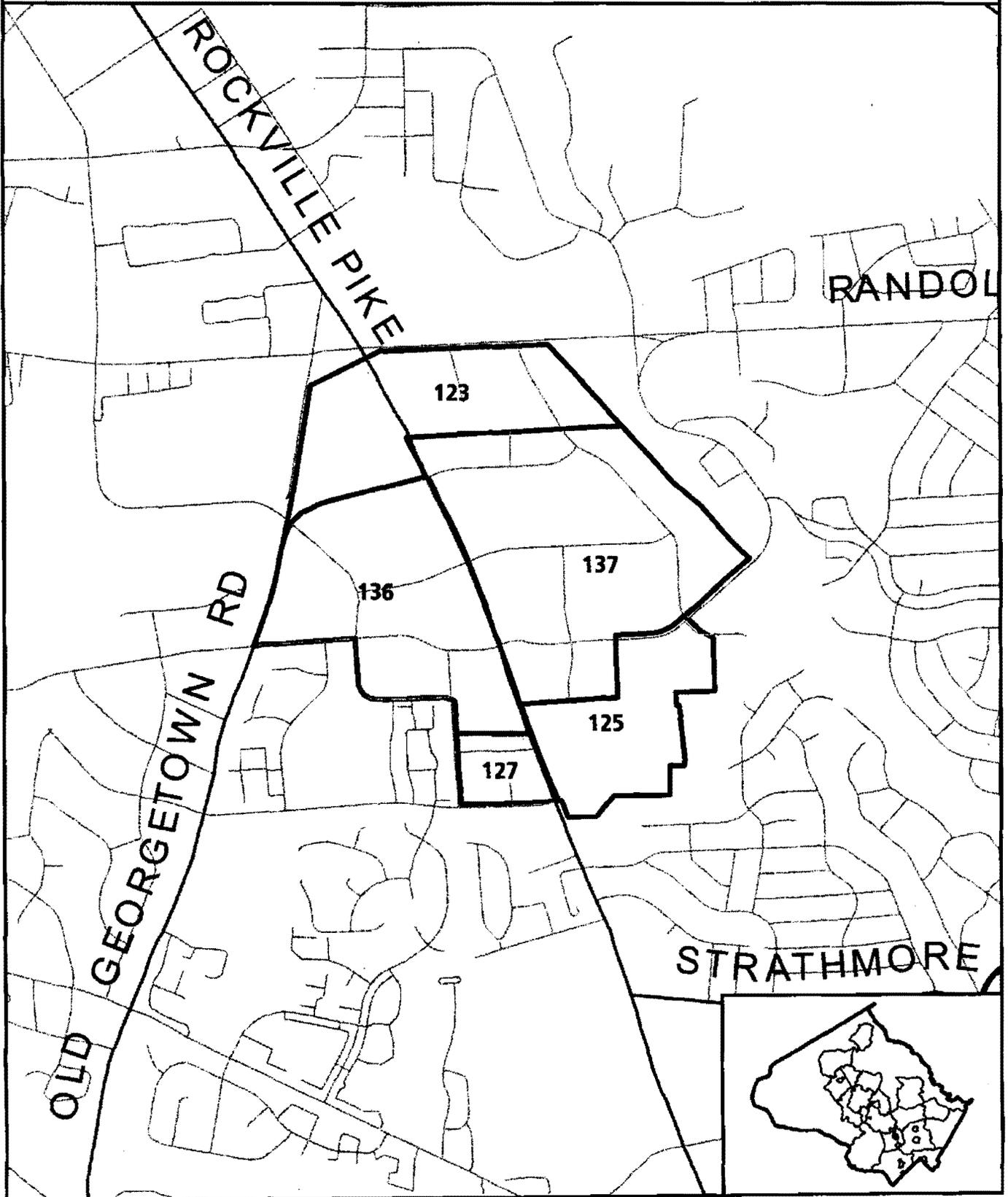
Germantown Town Center Policy Area with Traffic Zones

MAP 12



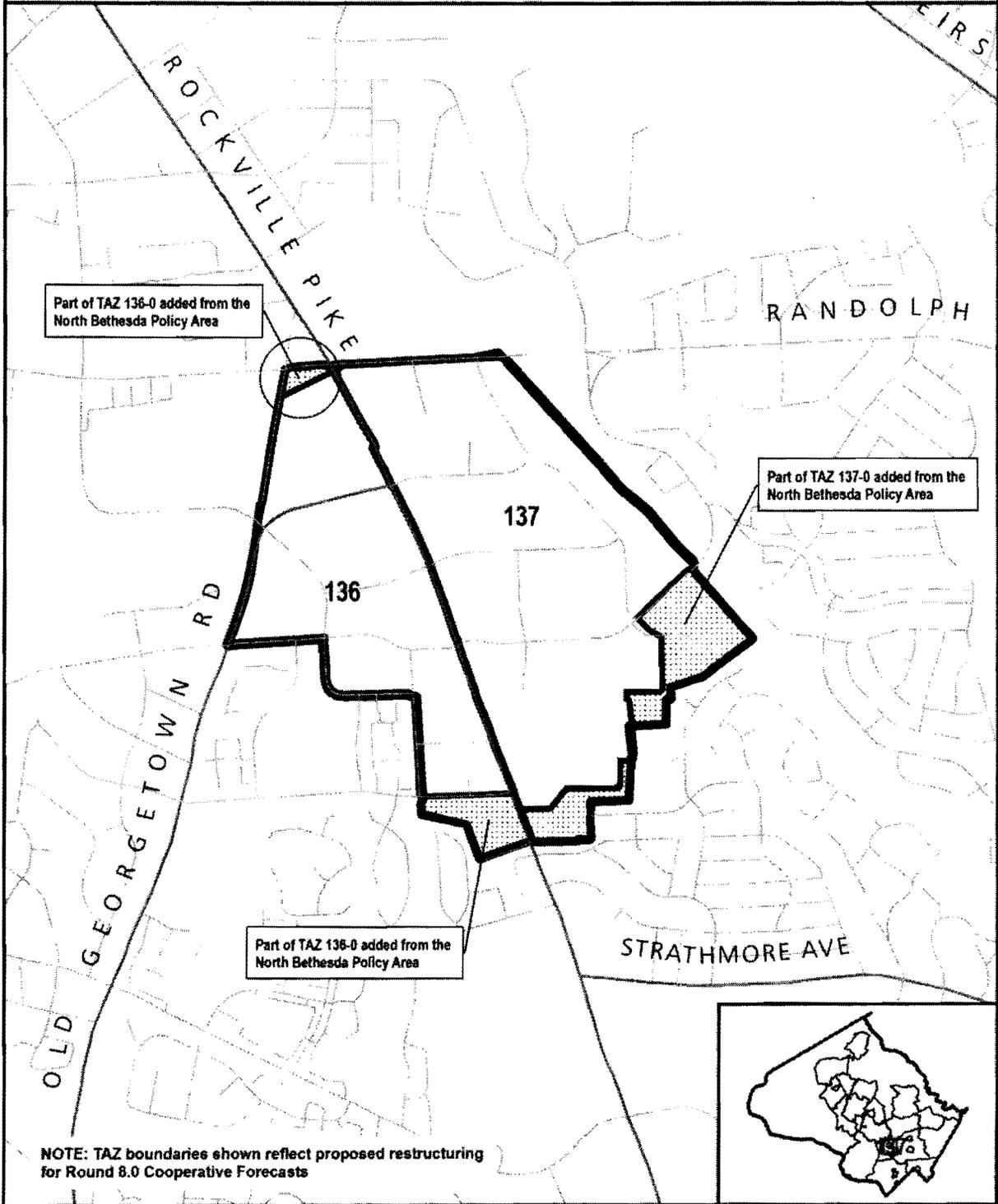
White Flint Policy Area with Traffic Zones

MONTCOMERY COUNTY DEPARTMENT OF PARKS & PLANNING
4400 WOODBURN LANE, SUITE 100, ROCKVILLE, MARYLAND
301-787-1000

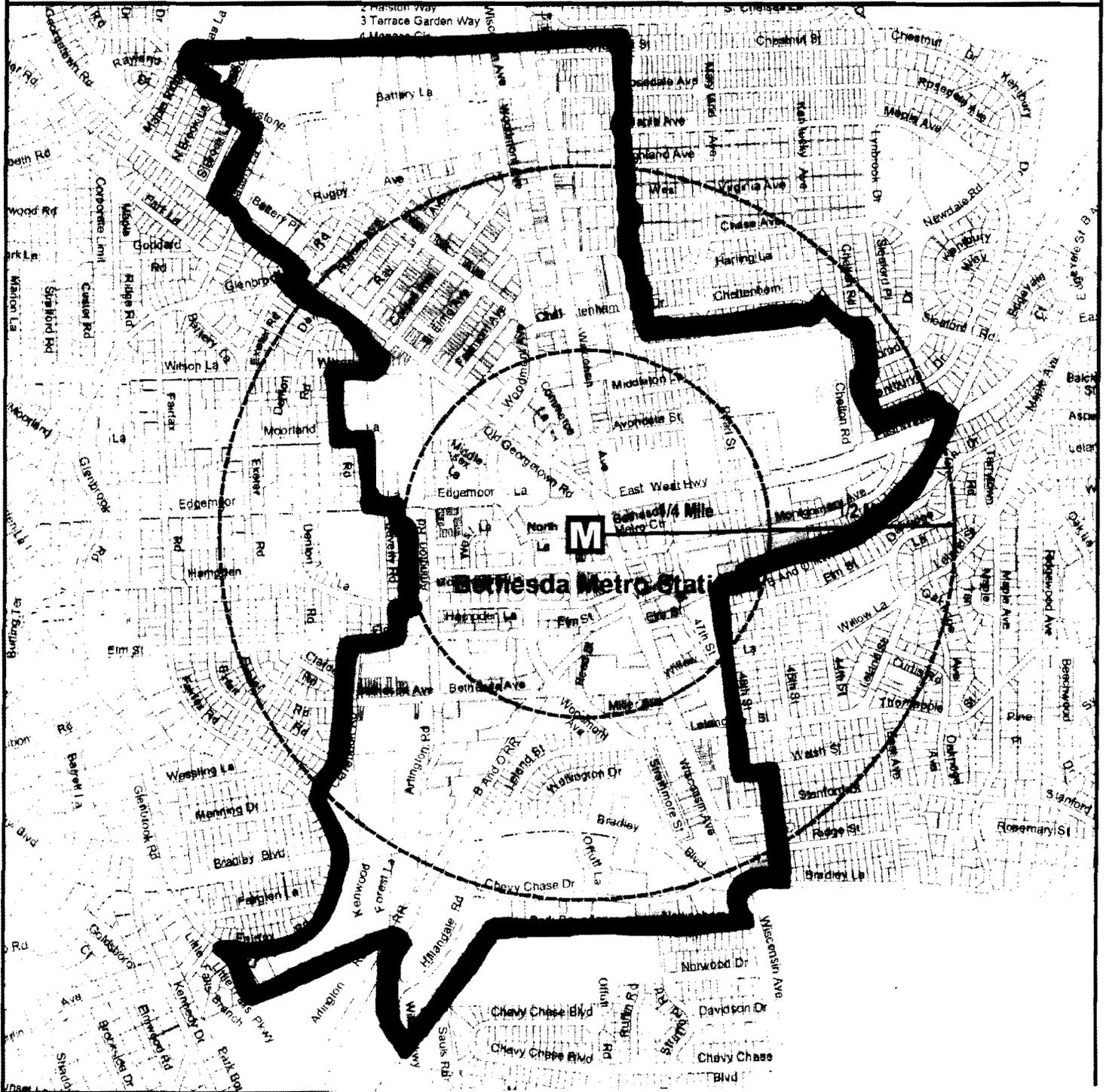


White Flint Policy Area with Traffic Zones

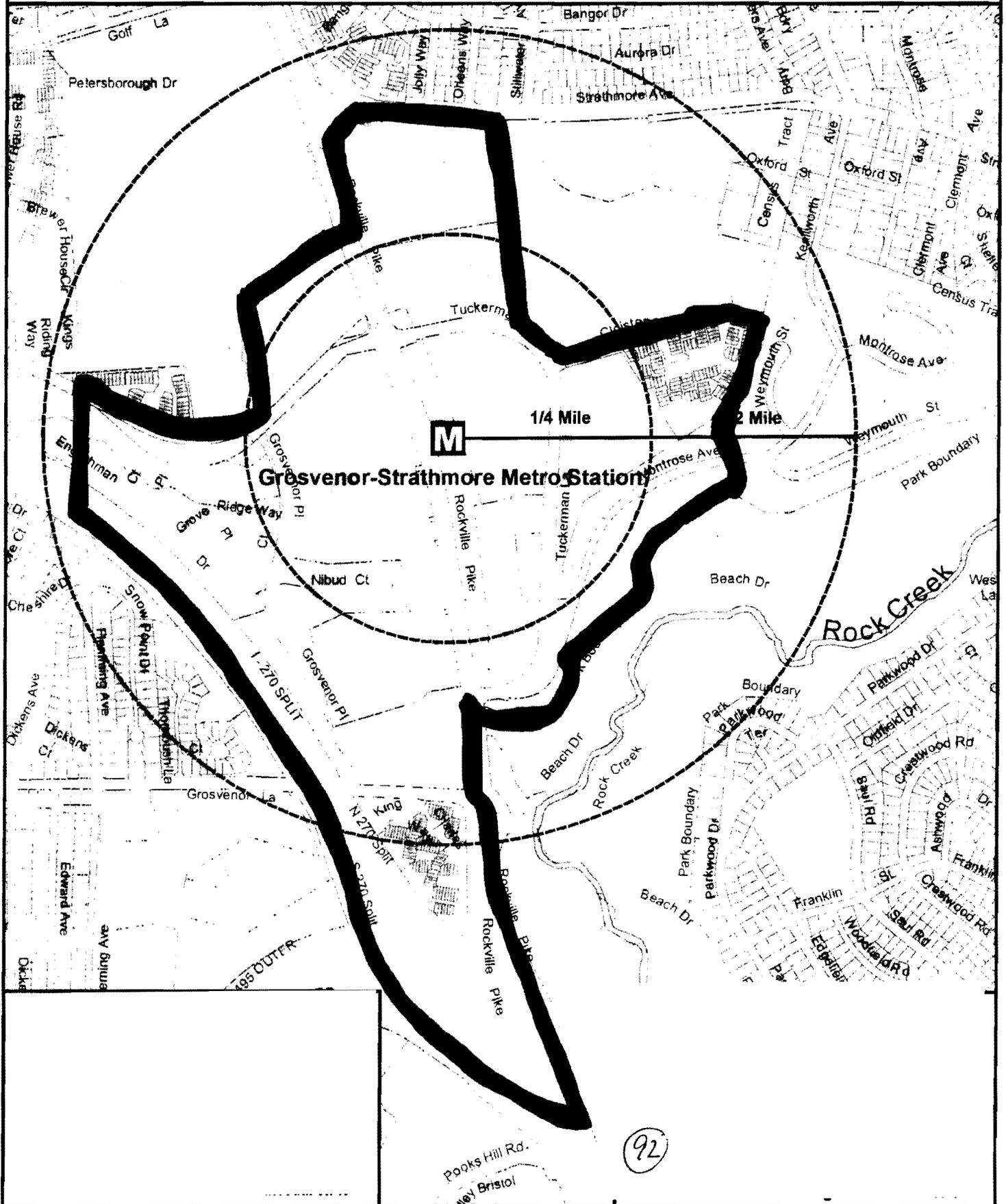
MAP 33



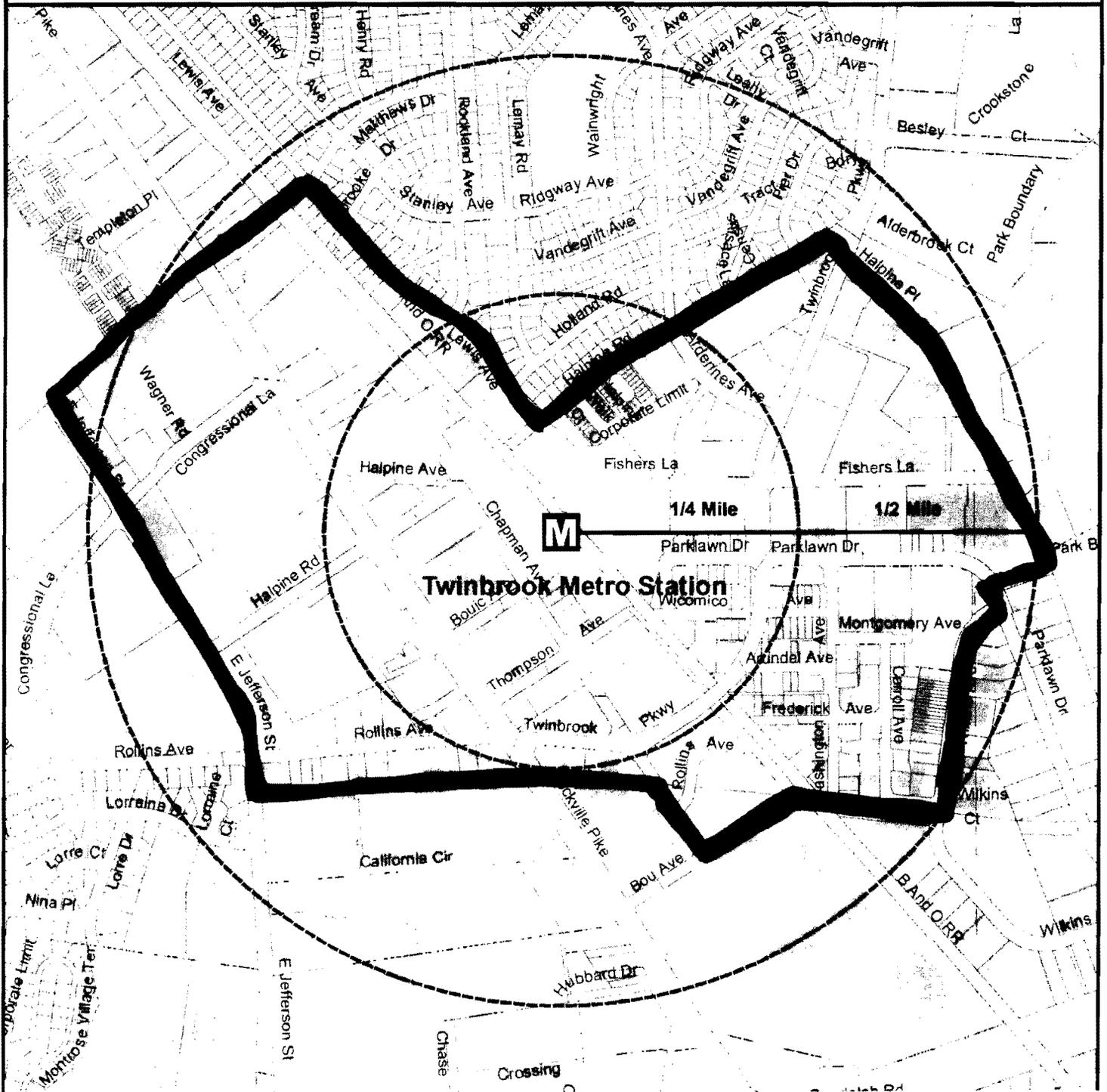
Bethesda CBD Metro Station Policy Area



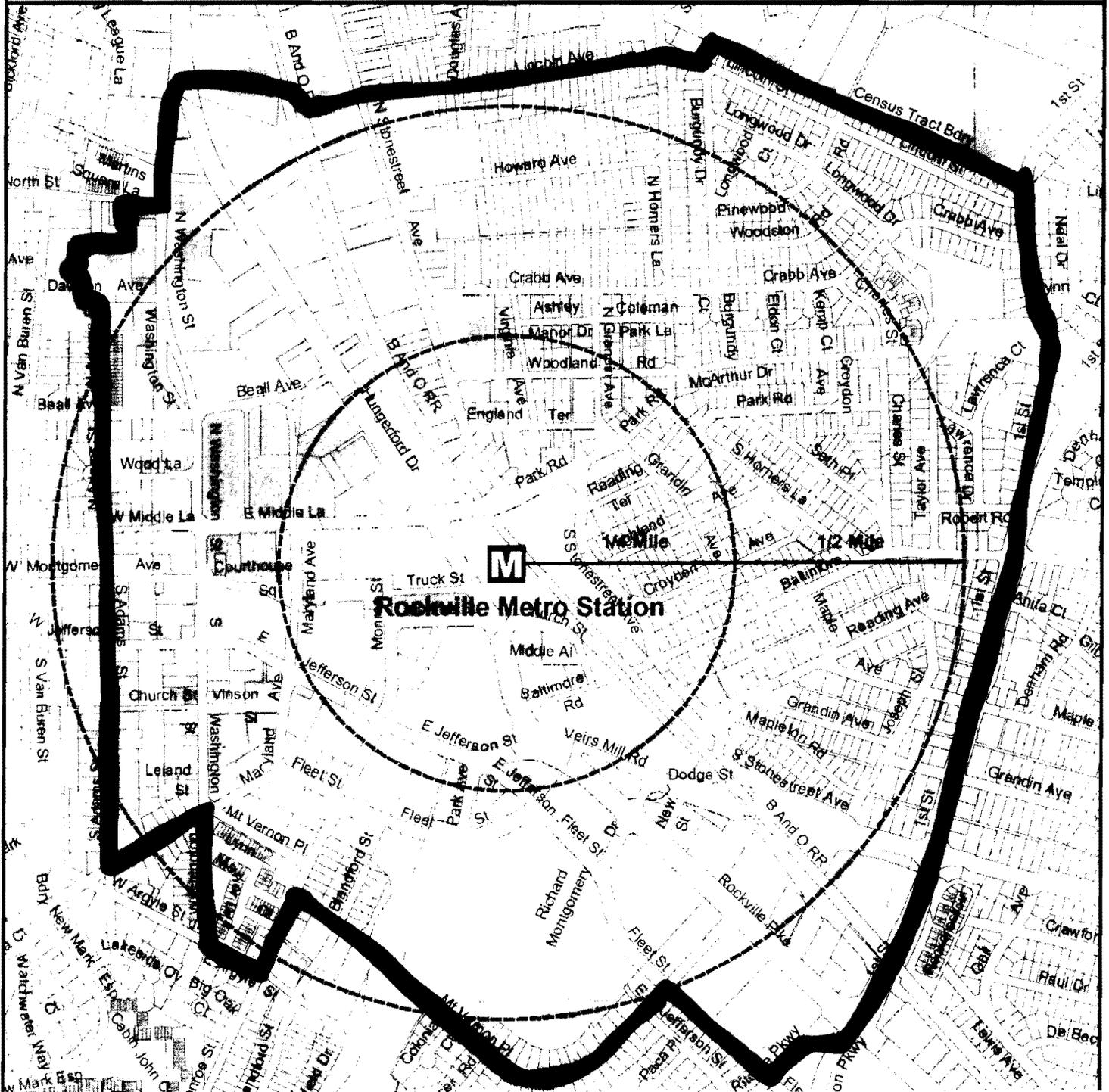
Grosvenor Metro Station Policy Area



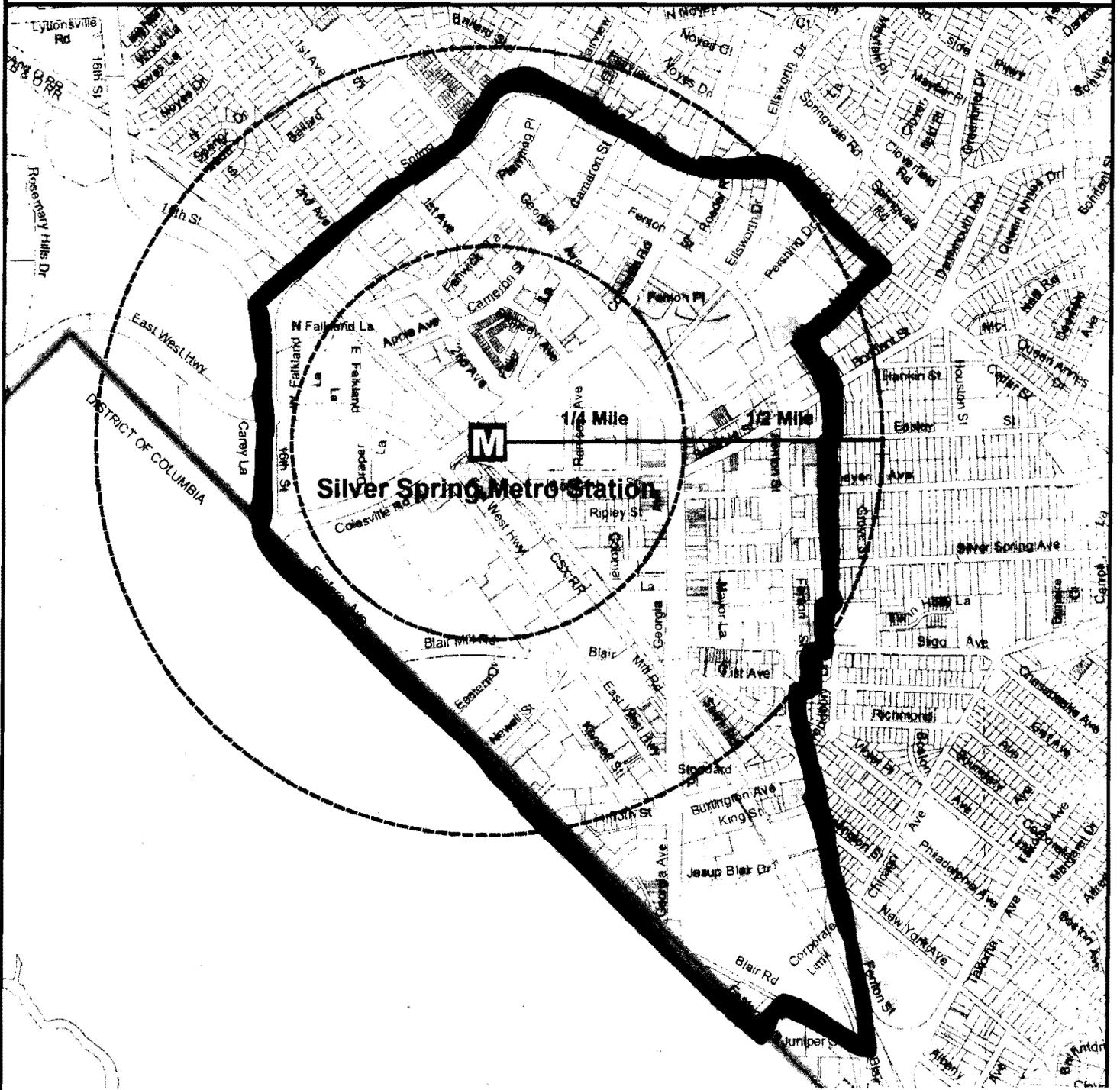
Twinbrook Metro Station Policy Area



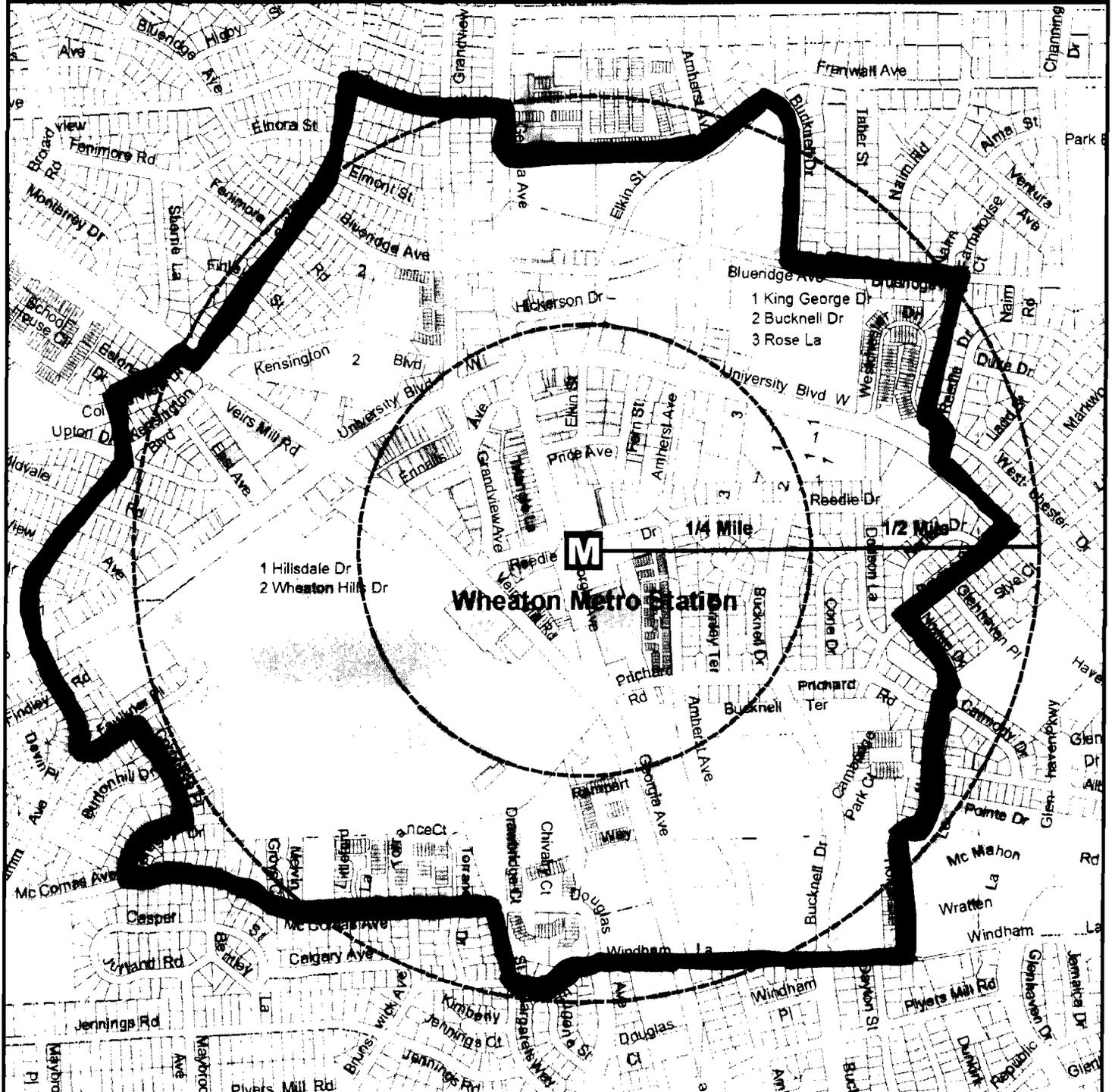
Rockville Town Center Metro Station Policy Area



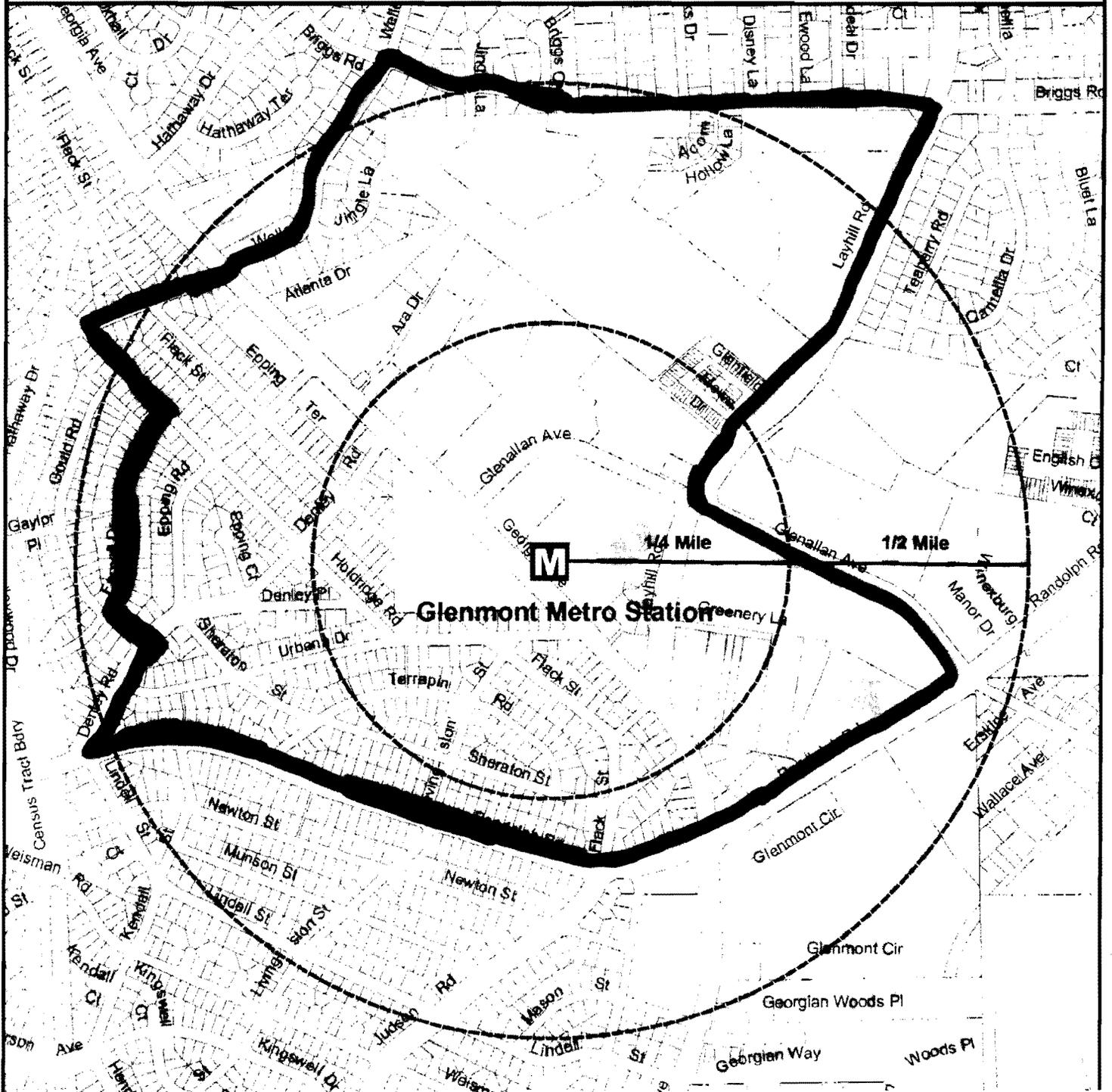
Silver Spring Metro Station Policy Area



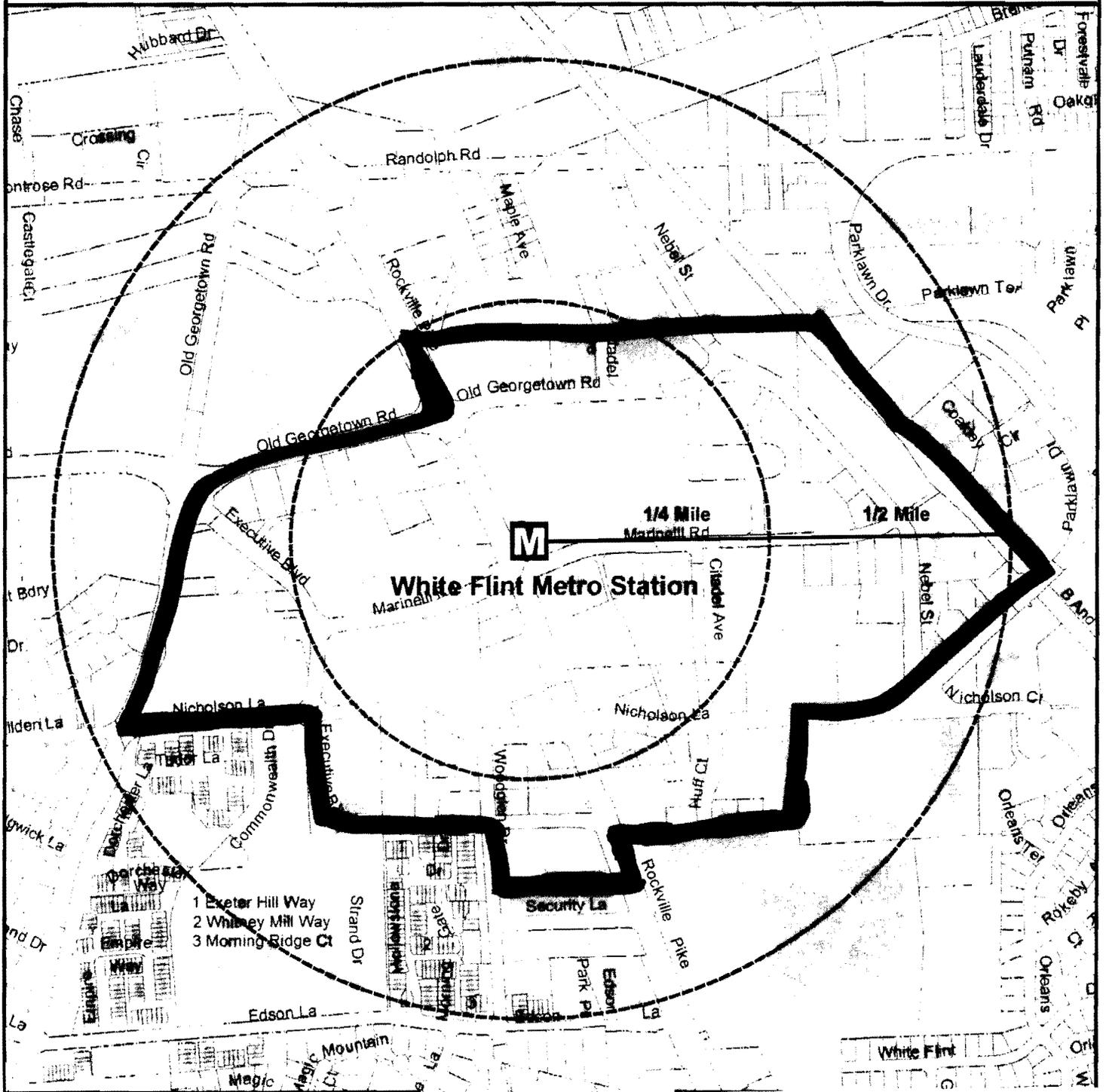
Wheaton CBD Metro Station Policy Area



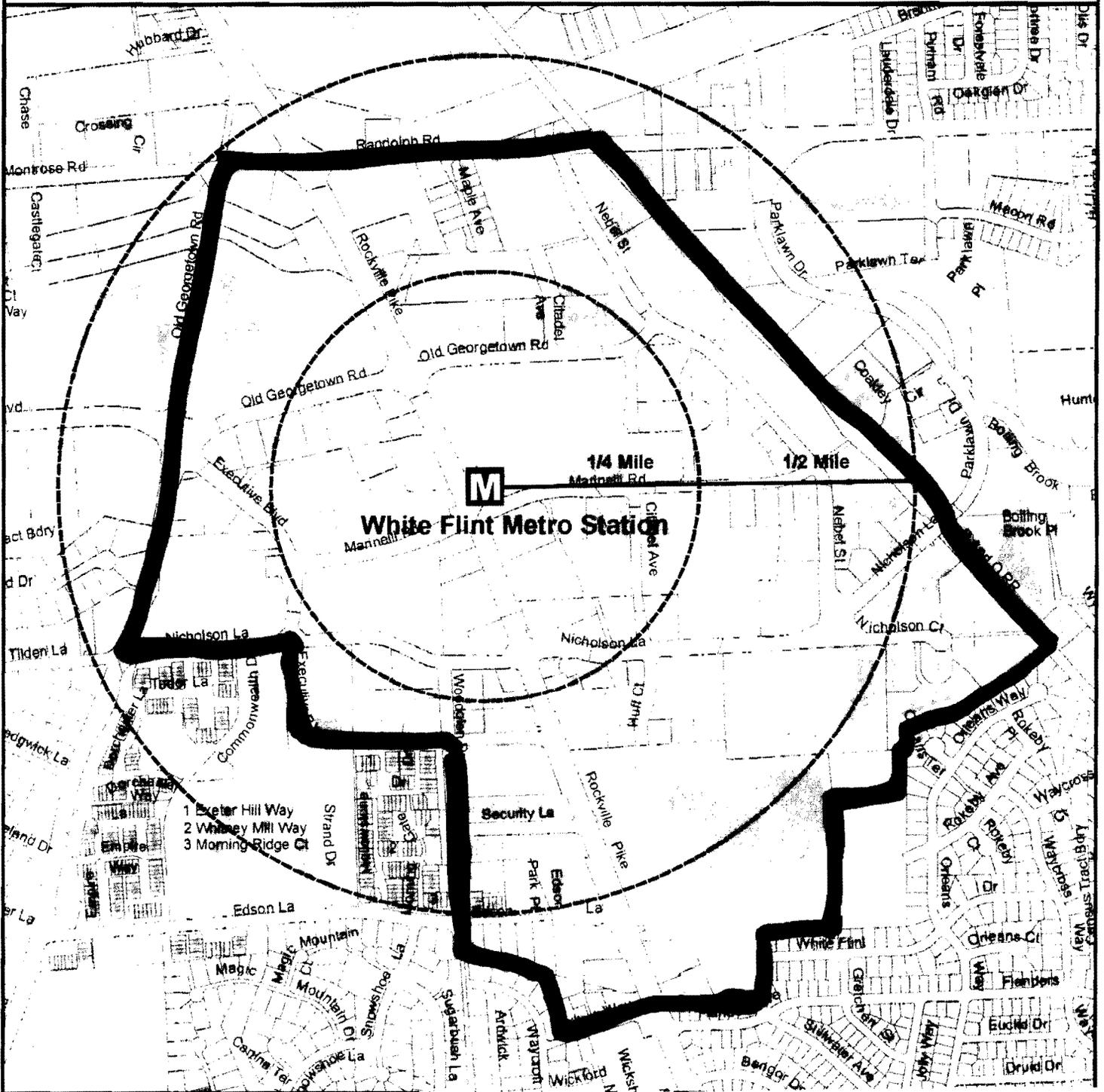
Glenmont Metro Station Policy Area



2003 White Flint Metro Station Policy Area

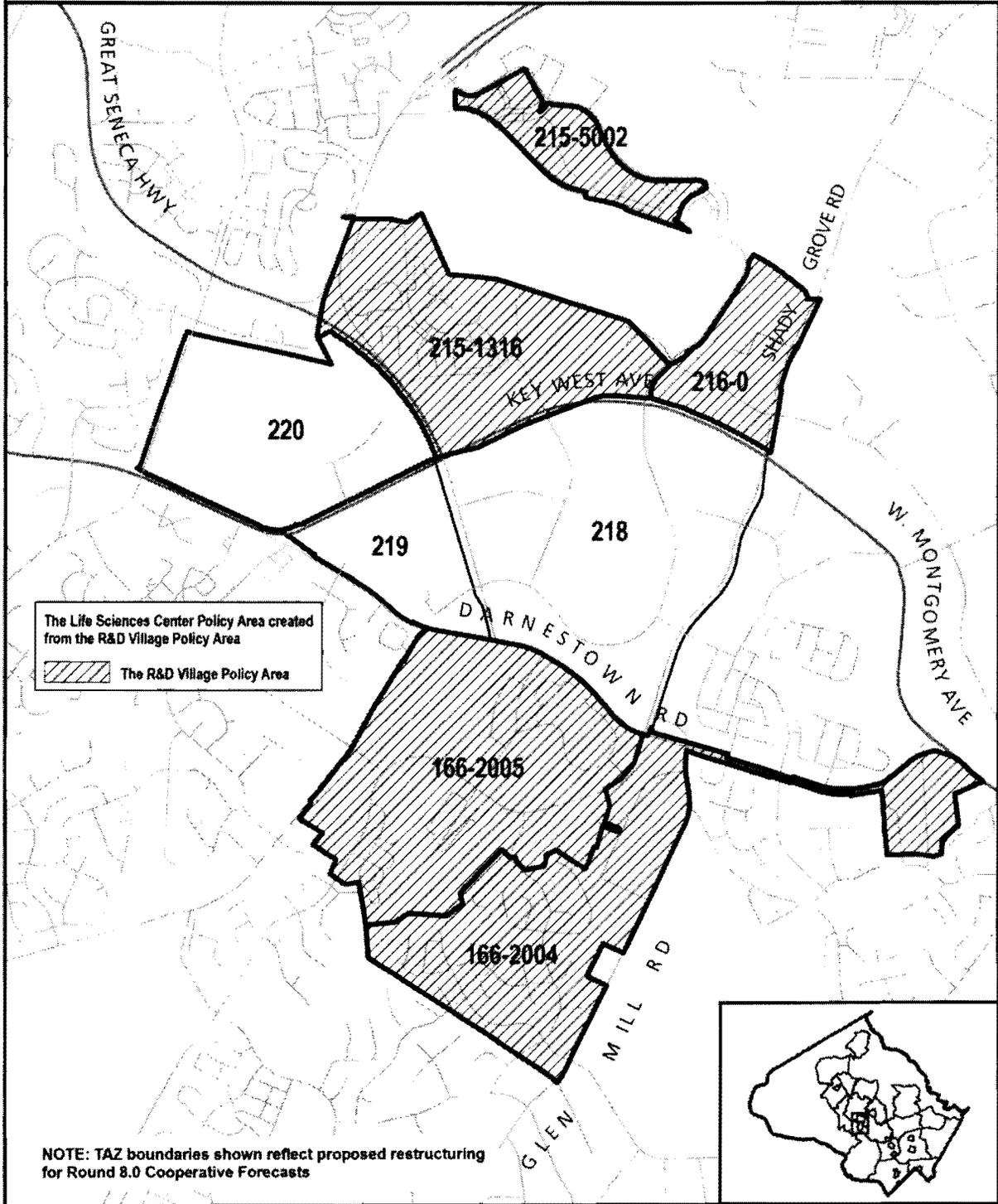


2005 White Flint Metro Station Policy Area



Life Sciences Center Policy Area with Traffic Zones

MAP 17



101

HOLY CROSS HOSPITAL

Testimony of Eileen Cahill on the Proposed 2009-2011 Growth Policy

September 22, 2009

Good evening, Council President Andrews and Members of the County Council. My name is Eileen Cahill, and I am vice president of government and community relations for Holy Cross Hospital in Silver Spring. I appreciate the opportunity on behalf of the hospital to give testimony relating to the Proposed 2009-2011 Growth Policy.

I will focus my time on the subject of the applicability of the growth policy on a proposed hospital. Provision of adequate health care services is a primary obligation of county government. The County should consider a hospital facility as part of the basic public infrastructure necessary to serve its growing population. Like a school, fire station, or other such facilities serving basic needs of County residents, hospitals should not be subjected to the rigors of growth policy testing.

Holy Cross Hospital shares the concerns that have been expressed by others, including the County Executive, that the Policy Area Mobility Review is a fundamentally flawed test of the transportation system. I will leave it to others who are far more versed in the complexities of PAMR to address issues with that

(102)

form of transportation testing, reiterating only that hospitals are necessary to the public infrastructure and to the health and well being of our residents.

As you are aware from the recent Germantown Sector Plan proceedings, Holy Cross Hospital is proposing to locate a new hospital facility in the Germantown east area, specifically in the Science & Technology Park on the Germantown campus of Montgomery College. Our proposed Germantown Hospital is currently the subject of a Certificate of Need application, which is now pending before the Maryland Health Care Commission. At the request of Holy Cross Hospital, the Commission is considering our application as part of a comparative review with one proposed for Clarksburg by Adventist HealthCare. There being no disagreement between us that a new hospital facility is needed to serve the up-county region, the comparative review allows the Commission to determine which of the two proposals would best meet the health care needs of up-county residents.

Just as the County Council determined in its consideration of the Germantown Sector Plan that a hospital should be made a permitted use as a matter of right if the Maryland Health Care Commission approves a Certificate of Need for a particular location, the growth policy should similarly exempt a hospital from testing if the Commission approves a Certificate of Need for a particular location.

Upon the determination that a hospital is needed to serve up-county residents, other competing public policies pertaining to growth management should not delay the timely delivery of a new hospital. Not only does need exist now, you know as we do, that the County's senior population will soon increase significantly, beginning with the first wave of baby boomers turning 65 in 2011, and doubling by the year 2030.

Thank you for your consideration of our position. I would be happy to answer any questions you may have.

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(104)

September 29, 2009

The Honorable Phil Andrews
President
Montgomery County Council
Stella B. Werner Office Building
100 Maryland Avenue
Rockville, MD 20850

Re: 2009 – 2011 Growth Policy

Dear Council President Andrews:

I am writing to you and your fellow Council members today to reiterate and expand upon comments that Bob Harris made on our behalf at the public hearing for the Growth Policy on September 22, 2009. More specifically, at that hearing, Holy Cross Hospital effectively asked the Council to ignore traffic review procedures and standards applicable to new development, with respect to their proposed hospital in Germantown.

We oppose any such unique or special relief. The Holy Cross venture is a private enterprise being undertaken by Holy Cross Hospital and a private developer and should be subject to all applicable traffic requirements, particularly when the proposal is competing directly against our proposal to locate a new upcounty hospital in Clarksburg which has conformed to those requirements. (As we've indicated before, we support the educational mission of Montgomery College and appreciate the valuable role they have in our community. Our concern is not with the College, but with the Holy Cross proposal).

By way of background, although hospitals, nursing homes, medical clinics and other such facilities serve the public, they generate traffic and are considered to be private enterprises subject to applicable traffic obligations.

By direct comparison, the proposed Clarksburg Community Hospital was subject to the same traffic standards and review procedures as other private development and the approvals for it impose obligations with respect to road improvements and travel demand management. The same is true with respect to our pending relocation of the Washington Adventist Hospital from Takoma Park to White Oak.

In fact, to our knowledge, every other hospital, nursing home and medical facility in the County also has been subject to these requirements. The same rules should apply to Holy Cross.

We demonstrate God's care by improving the health of people and communities through a ministry of physical, mental and spiritual healing.

As reflected by the current 2007 - 2009 Growth Policy as well as that proposed for 2009 – 2011, the Germantown East area is affected by considerable existing and forecasted congestion. Approved but un-built development in that area and the proposed expansion of Montgomery College itself only add to that congestion.

The recently adopted Germantown Master Plan notes that substantial road improvements will be required in the area to accommodate both approved development and that envisioned in the Germantown Sector Plan. For this reason, the Growth Policy requires full mitigation of any new trips generated by the proposed hospital.

Additionally, we understand the congestion is not just reflected by the Policy Area Mobility Review calculations for East Germantown, it also is demonstrated by congestion at multiple individual intersections as well. Even without the proposed hospital, for example, Montgomery College's own traffic study produced in connection with a proposed new college building, reveals that many of the intersections in the area will be over capacity, exceeding the acceptable capacity by up to 45%. More specifically, the following intersections will exceed the Critical Lane Value standard of 1425:

<u>Intersection</u>	<u>CLV Without Hospital</u>
• MD 27/Observation Drive	2072
• MD 118/Observation Drive	1597
• MD 355/Middlebrook Road	1902
• MD 118/Aircraft Drive	1691
• MD 355/MD 188	1624

If Holy Cross Hospital wants to locate in an area with this level of anticipated congestion but cannot meet their traffic obligations, than it's clear our Clarksburg site is indeed the proper location for a new upcounty hospital. This is particularly true given that our proposed hospital in Clarksburg will meet designated traffic requirements, will make improvements to the transportation system and will provide an accessible site for the hospital and other related uses.

The Council has indicated an interest in remaining neutral in the comparative review of the two pending Certificate of Need applications for a hospital in the upcounty.

To ensure this neutrality, Holy Cross should not be given an unfair advantage by having its traffic obligations ignored when ours and those of other hospitals have not been. We ask that you not change the Growth Policy or any of the traffic review procedures to do so.

Sincerely,



Robert E. Jenson
Vice President

cc: County Executive Isiah Leggett
Councilmember Roger Berliner
Councilmember Marc Elrich
Councilmember Valerie Ervin
Councilmember Nancy Floreen
Councilmember Mike Knapp
Councilmember George Leventhal
Councilmember Nancy Navarro
Councilmember Duchy Trachtenberg
Mr. Glenn Orlin

AGENDA ITEM #6
October 27, 2009
Addendum

MEMORANDUM

October 26, 2009

TO: County Council
FROM: Glenn Orlin, ^{Go}Deputy Council Staff Director
SUBJECT: **Addendum**—2009-2011 Growth Policy

After business hours Friday the Council received the attached memorandum from the County Executive critiquing the Planning, Housing, and Economic Development Committee's recommendations to modify Policy Area Mobility Review (PAMR) (©1-2).

Council staff will be prepared to comment on the Executive's memo at the worksession.

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OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

October 23, 2009

TO: Phil Andrews, President
Montgomery County Council

FROM: Isiah Leggett, County Executive

SUBJECT: 2009 Growth Policy

I am writing to transmit my comments on the October 20, 2009, Planning, Housing, and Economic Development (PHED) Committee actions on the 2009 Annual Growth Policy. First of all, I fully support the PHED Committee recommendation to replace Policy Area Mobility Review (PAMR). I look forward to working with you to develop a transportation test that is workable and achieves our transportation objectives. This test needs to fulfill our mutual goal to achieve balance between transportation infrastructure and approved development. This balance is necessary to avoid congestion that if excessive will harm our quality of life and the environment. In the longer term, as workers, clients and customers are stuck on clogged roads and unable to reach their destinations, excessive congestion will threaten continued economic development.

I am concerned, however, with the direction of the PHED Committee modifications to PAMR. The PHED Committee voted to support a modified Option 6 from the Council staff packet that significantly lowers the congestion standard to LOS E if there is transit LOS B. This amendment results in a review that is even more difficult to understand and is inconsistent with the County's overall transportation objectives. As I have previously stated, I will transmit a revised transportation test for the Council's consideration. There is no reason to change the existing PAMR system for this interim period before Council can act on a Growth Policy amendment sometime next year. The change approved by PHED will permit heavy congestion with an average speed of less than 10 miles per hour on all roadways in a Policy Area if there is "good," even though conceivably minimal, transit service. The net result of this interim action is to lower the trip mitigation requirements for many Policy Areas. Under this option, five Policy Areas that currently require trip mitigation will no longer be required to mitigate trips: Bethesda/Chevy Chase, Derwood, Kensington/Wheaton, Olney, and Silver Spring/Takoma Park. In addition, three Policy Areas that required total trip mitigation will be moved to only partial mitigation: Germantown East, North Potomac, and Fairland/White Oak.

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The PHED Committee also modified the level of mitigation from the current 10% to 90% to 5% to 45%. This is a significant departure from the policy of development paying for itself, with the net result being more traffic congestion for the same level of development and less resources available for transportation infrastructure. This means that at a time when County resources are stretched further than ever before, development will bear less of the cost of providing for the trips it generates and the County taxpayers will need to pick up even more costs. The outcome of this is that there will either be extensive congestion or the County will need to pay for the transportation infrastructure at the expense of other public needs.

Additionally, I understand that the PAMR options reviewed by the PHED Committee have not been reviewed by the Montgomery County Department of Transportation or by the civic federations, business community, and residents prior to the PHED Committee action. This is counter to the need for a transparent process and does not move us in the right direction. The current PAMR is preferable until a new transportation test can be adopted. I urge the Council to act accordingly.

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