

MEMORANDUM

October 24, 2016

TO: Planning, Housing, and Economic Development Committee
FROM: ^{GO} Glenn Orlin, Deputy Council Administrator
SUBJECT: 2016-2020 Subdivision Staging Policy (SSP): transportation test (continuation)

Please bring the SSP Report and the Appendix to this worksession.

1. Replacing policy area test with a higher transportation impact tax. On October 18 the Committee recommended eliminating the policy area transportation test: neither continuing the Transportation Policy Area Review (TPAR) nor instituting the Planning Board's recommended transit accessibility test. Instead it preferred to raise the transportation impact tax by a certain percentage over whatever new set of rates the Council will select. Council staff had noted that traffic mitigation payments under PAMR and TPAR over the past decade have been quite small. The following are the transportation mitigation payment funds that were conditions of subdivision approvals under the PAMR and TPAR regimes:

Fiscal Year	Transportation Mitigation Payments Required
2011	\$176,000
2012	45,400
2013	383,300
2014	468,000
2015	214,058
2016	170,728
Total	\$1,457,486

Over the past 6 years, the County has collected about \$1.46 million in transportation mitigation payments, or about 2% of what the County collected in transportation impact tax revenue during the same period.

However, it was also noted that the amount of mitigation payment revenue would likely be larger in the future, since many subdivisions having been approved with the condition of making this payment have not yet reached the point of payment: 6 months after building permit issuance for residential development or 12 months after permit issuance for non-residential development. Councilmember Leventhal asked for more information about what the mitigation payment revenue would likely be in the future before deciding on the percentage by which the transportation impact tax rates should be increased to compensate for discontinuing mitigation payments.

Planning staff's analysis is on ©1. Metro Station Policy Areas (MSPAs)—“Red Areas” in the Draft SSP's parlance—are exempt from the TPAR test, so they generate no mitigation payment revenue. Of the many non-MSPA policy areas, most fail either the transit adequacy or roadway adequacy tests, but not both: so to proceed, developments there must make a mitigation payment equal to 25% of the applicable transportation impact tax. Three policy areas fail both tests, so they must pay an amount equal to 50% of the applicable, and three others pass both tests, so no TPAR payment is required. Therefore, on average, developments in non-MSPAs pay an amount equal to 25% of the impact tax.

The housing and employment growth projections between 2015 and 2020 shows that 44% of the housing growth and 65% of the jobs growth will be in the non-MSPA policy areas, that is, where the TPAR test applies. Thus, Planning staff estimates that, if TPAR were to continue as it is now, mitigation payment revenue from housing would equal about 11% (0.25×0.44) of the impact tax, and such revenue from employment would equal about 16% (0.25×0.65) of the impact tax.

Therefore, in order not to reduce revenue below what would otherwise be collected, there are two options: after determining what the impact tax rate schedule would be assuming continuation of mitigation payments, either (1) raise the rates in all policy areas by a figure between 11% and 16%, say 14%; or (2) increase the rates in the non-MSPAs only by 25%.

The GO Committee will make its recommendations on the transportation tax schedule on October 27. The PHED Committee's suggestion will be reported to the GO Committee.

Proportional cost-sharing LATR test. On October 17 the Committee asked for more elaboration about how proportional cost-sharing—the “White Oak model”—might work. Chris Conklin, DOT's Deputy Director for Transportation Policy, has prepared a description of how the process would work (©2-3).

When the Planning Board transmitted its Draft 2016-2020 SSP in August, it inadvertently left out the text of the 2015 White Oak SSP amendment (©4-5). If the Council is to transition to this model in MSPA's and, perhaps, other policy areas in the next several years, this would be a good opportunity to generalize the White Oak text so that it could apply to any policy area where the Council may wish to use proportional cost-sharing.

Council staff recommends the amendment on ©6. By adopting this amendment the Council would not have to amend the SSP every time it wished to establish proportional cost-sharing in a policy area.

Assuming the elimination of a Policy Area Test (or TPAR), what percentage increase in transportation impact tax is needed to raise relatively the same amount of revenue (countywide) as could potentially be raised by 2020 under the current TPAR mitigation requirement of 25% for any policy deemed inadequate for roadway or transit service?

Currently, Metro Station Policy Areas (MSPAs) are exempt from the transit test under TPAR, and all are found to have adequate roadway service. Thus, only non-MSPAs are currently required to make a TPAR payment. Three non-MSPAs are adequate for both roadways and transit, while three different non-MSPAs are inadequate for both roadways and transit. Based upon this current profile, an assumption is made that from a revenue stand point this is like all non-MSPAs being inadequate at one level, or making a payment equivalent to 25% of the transportation impact tax.

A forecast of household and employment growth between 2015 and 2020 is shown in the chart below.

Policy Areas*	Total number of HHs 2020	Total Employment 2020	Increase in HHs 2015-2020	Increase in Employment 2015-2020	Percentage of County HH Growth	Percentage of County Employment Growth
MSPAs	39,203	115,717	7,020	6,339	56%	35%
Non-MSPAs	344,872	402,139	5,442	11,659	44%	65%
Total	384,075	517,856	12,462	17,998	100%	100%

*Does not include White Flint

Based on the estimated percentage of county employment growth in the non-MSPAs, to recover an equivalent amount of revenue from an increase in the impact tax on non-residential development for all policy areas, the impact tax countywide would need to increase on average 16%. Basically, using the current TPAR results for 2014, a 25% TPAR surcharge would apply to 65% of new employment (non-residential development) with an expected TPAR income stream is equal to 25% of 65%, or 16% of the total impact tax revenue stream.

Likewise, based on the estimated percentage of county household growth in the non-MSPAs, to recover an equivalent amount of revenue from an increase in the impact tax on household development for all policy areas, the impact tax countywide would need to increase an average of 11%.

Countywide residential and employment growth between 2015 and 2020 are approximately equal to 3.2% and 3.5% respectively.

Transportation Impact Taxes and Adequate Public Facility Compliance Programs
10/21/2016 – Montgomery County Planning Department/Montgomery County DOT

As an outcome of its worksession on October 17, 2016, the *Planning Housing and Economic Development* (PHED) Committee reached preliminary conclusions on several elements of the proposed Subdivision Staging Policy (SSP). In these discussions, the Committee asked for more clarity around the approach to Local Area Transportation Review (LATR) and its relationship to other impact taxes and fees. To assist the committee with further consideration of these issues, the Planning Department and Department of Transportation have prepared this description of the relationships between the different concepts discussed by the Committee.

Transportation Impact Taxes and Transportation Policy Area Review (TPAR):

In its current deliberations, the PHED Committee has made preliminary recommendations regarding Impact Taxes and replacement of Transportation Policy Area Review (TPAR). For clarity, the Impact Tax is a fee paid based on unit of development following a schedule established by Council. The tax rate schedule is under consideration by the *Government Operations and Fiscal Policy* (GO) Committee. TPAR is a fee that is proportional to the Impact Tax and is paid when a Policy Area fails to meet a specified performance metric, currently for highway congestion and transit service availability.

The PHED Committee agreed that TPAR should be eliminated and indicated general support for increasing the Transportation Impact Tax to make up for the revenues that would have been realized through TPAR. Traditionally, Impact Taxes have been used to fund countywide transportation needs. The use of TPAR payments have been limited to uses that address the needs of the policy area in which it is collected.

With the structure currently endorsed by the PHED Committee, there will no longer be TPAR payments and there has been discussion of whether the Transportation Impact Tax should be reserved for use in the Policy Areas in which it is collected. The Planning Department and MCDOT concur with the Council Staff recommendation to retain the availability of Transportation Impact Tax payments for Countywide needs. It is the opinion of our two departments that the needs of specific policy areas are best addressed through a revised approach to Local Area Transportation Review (LATR) as described below.

2012-2016 Local Area Transportation Review (LATR)

Currently, LATR is a process where project proponents demonstrate that the transportation system will meet established performance objectives after implementation of their project. Currently, this process has been focused on compliance with traffic standards based on Critical Lane Volumes (CLV), with modest requirements for addressing pedestrian and bicycle needs. If an applicant cannot meet the CLV standards, mitigation must be implemented. Generally, the applicant must take measures to reduce the trip generation so that the standard can be met, must implement physical improvements to address the impact, or, as a last resort, must make a payment sufficient for the public sector to implement an improvement.

Proposed 2016-2020 LATR

The Planning Board has recommended expanding the provisions of LATR to include requirements for pedestrian, bicycle and transit adequacy. Adjustments to the Planning Board recommendations have been jointly proposed by the Planning Department and MCDOT in our letter dated October 6, 2016.

With these enhancements, it is our shared opinion that the Proposed LATR process will provide a comprehensive, multimodal test for adequate roadway, transit, pedestrian and bicycle facilities. If an applicant

is unable to demonstrate that the test for each mode is met, specific measures to conform with the requirements must be implemented.

Both departments agree that the Proposed 2016-2020 LATR will serve the transportation Adequate Public Facilities (APF) needs of large areas of the county, where new development is of a smaller scale, lower frequency, or has less interaction with other development activities. When there is substantial value to a highly-prescriptive approach, such as areas of concentrated development activity, a process to develop a comprehensive plan and development contribution assignment is proposed, as described below.

Unified Mobility Programs (UMPs)

In particular focus areas, where a high level of coordination of transportation infrastructure, operations, and management activities is essential to provide adequate system operation, the Planning Department and DOT have proposed developing Unified Mobility Programs. In these areas, multimodal projects, operational changes, and transportation management needs would be identified for the planning area and its gateways.

With this plan of projects, policies, and management activities established, cost estimates would be developed for each area. Once costs are understood, a set of rates per unit of development (or trips) would be recommended and adopted by Council. The adopted rates would reflect a policy decision about the appropriate level of development-generated and publicly-provided funding required to meet the needs of the specified geography. A description of the technical approach is detailed in a memo from MCDOT to Glenn Orlin contained in the PHED Committee's October 14, 2016 packet.

UMP Implementation

Implementation of UMPs would take some time and DOT developed an estimate of 9 – 18 months per UMP, with the possibility of completing multiple UMPs at the same time, dependent on available funding and staff capacity. In the interim, either the Proposed 2016-2020 LATR requirements could be used, LATR could be waived in a certain set of Policy Areas (except for very large projects) until an UMP is adopted, or an interim UMP fee could be established. Until the UMPs are in place, using the 2016-2020 LATR is the most straightforward approach as its application will be consistent with the general approach used in other areas. It is our recommendation that preparation of UMPs in the Red Policy Areas (Metro Station Policy Areas) be prioritized so that the new requirements can be established as quickly as possible in these areas.

Transportation Demand Management (TDM) Programs

Transportation Demand Management programs complement individual project mitigation commitments and UMPs by providing tools to property-owners, employers, and residents to reduce single-occupant vehicle trips. Annual service fees are paid by property owners for participation in programs. Currently participation is conditioned on development projects within the Transportation Management Districts (TMDs). However, we have proposed expanding this program to have an impact Countywide as shared with the T&E Committee and the PHED committee in recent weeks.

Resolution No: 18-107
Introduced: September 16, 2014
Adopted: April 14, 2015

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: Councilmember Floreen

SUBJECT: Amendment #14-02 to the 2012-2016 Subdivision Staging Policy regarding the White Oak Policy Area

Background

1. On July 29, 2014 the County Council approved Resolution 17-1203, amending the 2012-2016 Subdivision Staging Policy.
2. County Code §33A-15(f) allows either the County Council, County Executive, or the Planning Board to initiate an amendment to the Subdivision Staging Policy.

Action

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

The 2012-2016 Subdivision Staging Policy is amended, effective January 1, 2016, as follows:

* * *

TL Local Area Transportation Review (LATR)

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TL4 Unique Policy Area Issues

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TL4.7 White Oak Policy Area

In the White Oak Policy Area, the non-auto driver mode share (NADMS) goal for all new development, based on the area's future transit serve (assuming bus rapid transit) and connectivity opportunities, is 25% in the White Oak Center and Hillandale Center, and is 30% in the Life Sciences/FDA Village Center.

- (a) The Board may approve a subdivision in the White Oak Policy Area conditioned on the applicant paying a fee to the County commensurate with the applicant's proportion of the cost of a White Oak Local Area Transportation Improvement Program, including the costs of design, land acquisition, construction, site improvements, and utility relocation. The proportion is based on a subdivision's share of net additional peak-hour vehicle trips generated by all master-planned development in the White Oak Policy Area approved after January 1, 2016.
- (b) The components of the White Oak Local Area Transportation Improvement Program and the fee per peak-hour vehicle trip will be established by Council resolution, after a public hearing. The Council may amend the Program and the fee at any time, after a public hearing.
- (c) The fee must paid at a time and manner consistent with Transportation Mitigation Payments as prescribed in Section 52-59(d) of the Montgomery County Code.
- (d) The Department of Finance must retain funds collected under this Section in an account to be appropriated for transportation improvements that result in added transportation capacity serving the White Oak Policy Area.

* * *

This is a correct copy of Council action.

Linda M. Lauer
Linda M. Lauer, Clerk of the Council

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TL4.7 White Oak Policy Area

In the White Oak Policy Area, the non-auto driver mode share (NADMS) goal for all new development, based on the area's future transit serve (assuming bus rapid transit) and connectivity opportunities, is 25% in the White Oak Center and Hillandale Center, and is 30% in the Life Sciences/FDA Village Center.

- [(a) The Board may approve a subdivision in the White Oak Policy Area conditioned on the applicant paying a fee to the County commensurate with the applicant's proportion of the cost of a White Oak Local Area Transportation Improvement Program, including the costs of design, land acquisition, construction, site improvements, and utility relocation. The proportion is based on a subdivision's share of net additional peak-hour vehicle trips generated by all master-planned development in the White Oak Policy Area approved after January 1, 2016.
- (b) The components of the White Oak Local Area Transportation Improvement Program and the fee per peak-hour vehicle trip will be established by Council resolution, after a public hearing. The Council may amend the Program and the fee at any time, after a public hearing.
- (c) The fee must be paid at a time and manner consistent with Transportation Mitigation Payments as prescribed in Section 52-59(d) of the Montgomery County Code.
- (d) The Department of Finance must retain funds collected under this Section in an account to be appropriated for transportation improvements that result in added transportation capacity serving the White Oak Policy Area.]

TL5 Unified Mobility Programs

- (a) The Board may approve a subdivision in any policy area conditioned on the applicant paying a fee to the County commensurate with the applicant's proportion of the cost of a Unified Mobility Program, including the costs of design, land acquisition, construction, site improvements, and utility relocation. The proportion is based on a subdivision's share of net additional peak-hour vehicle trips generated by all master-planned development in the policy area.
- (b) The components of the Unified Mobility Program and the fee per peak-hour vehicle trip will be established by Council resolution, after a public hearing. The Council may amend the Program and the fee at any time, after a public hearing.
- (c) The fee must be paid at a time and manner consistent with Transportation Mitigation Payments as prescribed in Section 52-59(d) of the Montgomery County Code.
- (d) The Department of Finance must retain funds collected under this Section in an account to be appropriated for transportation improvements that result in added transportation capacity serving the policy area.