



Montgomery County Government

A DESCRIPTION AND EVALUATION OF THE MONTGOMERY COUNTY SUBURBAN DISTRICT AND URBAN DISTRICTS

	<u>Page</u>
I. SUMMARY AND MAJOR CONCLUSIONS/RECOMMENDATIONS	1
II. AUTHORITY, SCOPE, METHODOLOGY AND ORGANIZATION	3
III. DESCRIPTION OF THE MONTGOMERY COUNTY SUBURBAN DISTRICT	4
A. Overview	4
B. Legislative History	5
C. Suburban District Tax and Fund	6
D. Organization and Services	8
IV. DESCRIPTION OF THE MONTGOMERY COUNTY URBAN DISTRICTS	12
A. Overview	12
B. Legislative History and Code Provisions	13
C. Urban District Funding	17
1. Overview	17
2. Urban District Taxes	18
3. Parking Fees	19
4. Maintenance Fees	20
D. Optional Method Development	21
1. Overview	21
2. Additional Density Permitted	21
3. Planning Board Requirements	22
4. OMD in Bethesda and Silver Spring Urban Districts	22
5. Maintenance Services Provided	22
6. OMD Maintenance Fees	22
V. EVALUATION OF THE MONTGOMERY COUNTY SUBURBAN DISTRICT	23
A. Overview	23
B. Expanded Urbanization of the County	24
C. Change in District's Purpose	25
D. Change in Services	25
E. Expansion of Leaf Collection/Tree Services	26
F. Summary	29
VI. EVALUATION OF THE MONTGOMERY COUNTY URBAN DISTRICTS	30
A. Overview	30
B. Fulfilling the Goals of the Legislation	30
C. Efficiency of Administrative and Financial Framework	31
D. Effectiveness of Urban District Funding	35

	<u>Page</u>
VII. RELATED ISSUES	38
A. Overview	38
B. Coordination Between Urban Design Division, M-NCPPC and Urban Maintenance Section, DOT	38
C. Enforcement of Subdivision Regulations	40
D. Billing and Collecting Procedures for OMD Maintenance Fees	40
E. Other Development/Revitalization Projects Within the Districts. .	42
VIII. CONCLUSIONS	42
IX. RECOMMENDATIONS	44
X. AGENCY COMMENTS ON DRAFT REPORT	45
Table 1: Suburban District Assessable Tax Base	7
Table 2: Tax Classes in the Suburban District and its Immediate Vicinity	8a
Table 3: Suburban District Revenues and Expenditures	8b
Table 4: Urban Maintenance Section Personnel Complement	8
Table 5: Suburban District Leaf Collection and Processing	10
Table 6: Suburban District Contract Tree Services	11
Table 7: Total of the Three Urban Districts Revenues and Expenditures	17a
Table 8: Bethesda Urban District Revenues and Expenditures	17b
Table 9: Silver Spring Urban District Revenues and Expenditures . .	17c
Table 10: Wheaton Urban District Revenues and Expenditures	17d
Table 11: Urban Districts Assessable Tax Base, Tax Rate, and Tax Levy	18
Table 12: Total Number of Enforced Parking Spaces and Approximate Enforcement Hours for the Bethesda, Silver Spring and Wheaton Parking Lot Districts	19
Table 13: Parking Lot Districts - A Comparison of Total Parking Fees Collected and Parking Fees Transferred	20
EXHIBIT A: Map of Suburban/Urban Districts	
EXHIBIT B: Bethesda Urban District - Parking Lot Boundaries	
EXHIBIT C: Silver Spring Urban District - Parking Lot Boundaries	
EXHIBIT D: Wheaton Urban District - Parking Lot Boundaries	
EXHIBIT E: Bethesda Optional Method Developer Billing - July 1, 1991 to September 30, 1991	
EXHIBIT F: Extract from <u>The Tree Report</u>	
EXHIBIT G: Map Depicting Curbside Collection of Yard Waste	

I. SUMMARY AND MAJOR CONCLUSIONS/RECOMMENDATIONS

A. Summary

Suburban District. In 1927, the Maryland General Assembly created a special taxing area, the Montgomery County Suburban District, encompassing the urbanized areas of the lower County. In the sixty-five years since its creation, the Suburban District has gone through a number of significant changes: its geographical size has increased slightly; the fundamental purpose for creating the Suburban District (i.e., to develop a public infrastructure) is no longer applicable; Suburban District bonds are no longer issued; the special services provided in the District have been significantly modified; and three Urban District enclaves have been created in the three central business districts that once were a part of the Suburban District. An additional significant change has been a reduction in services provided the residents of the Suburban District. Currently, only leaf collection and recycling, tree maintenance, and minimal mowing and street sweeping services are provided.

For reasons detailed in the report, OLO concludes that the Suburban District is an anachronism and recommends that the Council abolish it as a special taxing district. The report further recommends that those services currently provided Suburban District residents and funded with a Suburban District Tax be expanded to residents of other developed and developing areas of the County and funded from general revenues or a special County-wide tax.

Urban Districts. In February 1986, the Council enacted legislation that created three Urban Districts out of the central business districts (CBDs) of Bethesda, Silver Spring and Wheaton. The intent of the Council in taking these three CBDs out of the Suburban District and creating three Urban Districts was to provide an administrative and financial framework to accomplish specific and unique goals in areas of the County experiencing intense development. These goals include: increase the number and maintenance of streetscape amenities, promote commercial and residential interest, and increase cultural and community activities in these areas.

The OLO report concludes that the desired goals of the Urban District legislation are being met. However, the report recommends a number of non-legislative changes to the current method of providing administrative support and funding for the Urban Districts.

B. Major Conclusions/Recommendations

Suburban District

The Montgomery County Suburban District is an anachronism in that the circumstances and conditions that existed in 1927 and necessitated the creation of the Suburban District do not exist in 1992. The Council should adopt a resolution abolishing the Suburban District.

The two major services currently provided the District, leaf collection and recycling and street tree maintenance are scheduled to be expanded beyond the District's statutory boundaries to other urbanized sections of the County. Accordingly, the Council should use that opportunity to fund these services within and outside the Suburban District from general revenues or create a special County-wide tax.

Montgomery County Urban Districts

County Code Chapter 68A, Montgomery County Urban Districts, specifies an appropriate set of goals and provides a suitable administrative and financial framework to accomplish these goals, albeit in varying degrees, among the three individual Districts.

The Urban Maintenance Section of the Department of Transportation (DOT) currently has responsibility for administrative support of the Urban Districts, a responsibility that is more in line with the mission assigned to the Directors of the Government Services Centers. Accordingly, the Executive should relieve the Director, DOT, of these responsibilities and designate the Director of the Government Services Center in which each Urban District is located responsibility for administrative support of that District.

The Director, Department of Transportation should be relieved of all other responsibilities in the Urban Districts that do not directly relate to the Department's statutory mission, such as management of promotion contracts.

All statutory and ad hoc government-supported organizations and groups in the Urban Districts should be reviewed and consolidated where duplication and overlap of functions and responsibilities are found.

The County should discontinue charging optional method developers a fee for maintaining streetscape amenities which the developer installed on the public right-of-way. Instead, the costs associated with all streetscape maintenance should be charged equitably to all Urban District property owners and funded from the appropriate Urban District Special Revenue Fund.

There is a need for closer coordination between the Urban Design Division, M-NCPPC, and the Urban Maintenance Section, DOT, on matters relating to optional method development; and among Executive Branch departments/offices in activities relating to billing, collecting and enforcing payments due the County from optional method developers for streetscape maintenance services.

II. AUTHORITY, SCOPE, METHODOLOGY AND ORGANIZATION OF THE REPORT

A. Authority

Council Resolution No. 12-144, subject: CY 1991 Work Program of the Office of Legislative Oversight, adopted March 26, 1991.

B. Scope

This report examines the Montgomery County Suburban District and the three Urban Districts: Bethesda, Silver Spring and Wheaton. Each has been created in law, the Suburban District in 1927, and the three Urban Districts in 1986, for a specific purpose. Each District has its own special tax and special District Revenue Fund. This OLO study describes and evaluates the statutory bases, the current missions and operations, and the funding and organizational structures of the Suburban District and the Urban Districts, with the Bethesda Urban District selected for more indepth examination.

C. Methodology

This project was conducted during November 1991-March 1992. The research design included review and analyses of:

- Current and past State and County laws and other legislative records;
- Applicable County and Maryland-National Capital Park and Planning Commission (M-NCPPC) policies, regulations and procedures;
- Statistical data provided by various Executive Branch Departments and the M-NCPPC; and
- Interviews with appropriate County officials and citizens familiar with the Suburban and Urban Districts.

Although data was collected for all three Urban Districts, and analysis presented applies to all three, time constraints limited indepth document review and interviews to the Bethesda Urban District.

D. Organization of the Report

This report is essentially two reports, the first on the Suburban District and the second on the Urban Districts.

Chapter III describes the Suburban District and examines its legal basis, funding and budget, organization, operations, and services.

Chapter IV describes the Urban Districts and examines its legal requirements, funding sources, organization and administrative support, and operations and services.

Chapter V evaluates the current and future role of the Suburban District.

Chapter VI evaluates the Urban Districts in general and Optional Method Development and administrative support of the Districts in more detail.

Chapter VII describes and evaluates five issues related to the Districts.

Chapter VIII contains OLO's conclusions.

Chapter IX contains OLO's recommendations.

III. DESCRIPTION OF THE MONTGOMERY COUNTY SUBURBAN DISTRICT

A. Overview

In 1927, the Maryland General Assembly created a special taxing area, the Montgomery County Suburban District, encompassing the urbanized areas of the lower portion of the County. Currently, the District comprises an area bounded on the north by the Northwest Branch Park and Bel Pre Road, on the east by the Prince George's County line, on the south by the District of Columbia line and the Potomac River, and on the west by the Rockville City limits and Interstates 270 and 495. Excluded are the three Urban Districts (Bethesda, Silver Spring and Wheaton), all federal and State properties, municipalities and special taxing areas, and property of the Board of Education, the Maryland-National Capital Park and Planning Commission and the Washington Suburban Sanitary Commission. (See map at Exhibit A)

Under the 1927 Maryland law, the Montgomery County Commissioners were empowered to provide funding for developing and controlling the public infrastructure (highways, construction, communications) within this special taxing area; and enacting rules, regulations and ordinances to safeguard and protect the health, safety and welfare of those residing in the District. Funding to carry out these responsibilities were provided through the issuance of bonds, which were retired by the levy of a special tax on all assessable property within the District; and an additional tax on property within the District to fund administration, road maintenance, street lighting and other services.

In the sixty-five years since its creation, the Suburban District has gone through a number of significant changes: its geographical size has increased slightly; the fundamental purpose for creating the Suburban District (i.e., to develop a public infrastructure) is no longer applicable; Suburban District bonds are no longer issued; the special services provided in the District have been significantly modified; and three Urban District enclaves have been created in the three central business districts that once were a part of the Suburban District. Another significant change has been a

reduction in services provided the residents of the Suburban District. Currently, only leaf collection, tree maintenance, mowing, and street sweeping services are provided by contract services or by staff of the Urban Maintenance Section of the Division of Operations, Department of Transportation.

More than 40 percent of the County's population and households are in the Suburban District region. The 1990 census did not specifically identify the population and number of households in the Districts; however, using census data provided by the Maryland-National Capital Park and Planning Commission, OLO has calculated the population and number of households as follows:

	<u>Population (%)</u>	<u>Households (%)</u>
Totals	757,027 (100.0%)	282,228 (100.0%)
Suburban District	313,075 (41.4%)	122,652 (43.5%)
Bethesda Urban District	4,317 (0.6%)	2,806 (1.0%)
Silver Spring Urban District	5,477 (0.7%)	3,077 (1.1%)
Wheaton Urban District	1,537 (0.2%)	616 (0.2%)
Remainder of County	432,261 (57.1%)	153,077 (54.2%)

B. Legislative History

The Montgomery County Suburban District was created by Chapter 692 of the 1927 Laws of the State of Maryland in recognition of the need to control development and provide public facilities maintenance for the growing population in that portion of Montgomery County bordering on the District of Columbia. The law designated the County Commissioners as the district council for the Suburban District with broad powers to:

- make regulations affecting buildings;
- construct, maintain and light roads, streets, sidewalks;
- inspect, license and regulate hospitals, homes for the aged and children, places of amusement;
- make laws for the protection of health, safety and welfare;
- regulate trade, manufacturing and business;
- issue and sell County bonds for the construction of roads within the District; and
- levy and collect taxes on assessable property in the District to pay interest on, and retire the bonds.

The original area that comprised the Suburban District was smaller than the present District. The initial northern boundary of the District ran roughly parallel to Randolph Road. In 1953, the Council approved enlarging the District to the north and east along Bel Pre Road-Bonifant Road-Northwest Branch Park, where it has remained essentially unchanged to the present. In 1986, the Council created the Bethesda, Silver Spring and Wheaton Urban Districts and removed these three areas from the Suburban District.

In the 65 years that it has been in existence, there have been several statutory changes affecting the Suburban District. After Montgomery County received its Charter, specific Suburban District legislation was enacted by the County Council as Chapter 102 of the Montgomery County Code, 1950. Essentially, the County statute paralleled the State law, making only those modifications which were necessitated by the Charter form of government. The new County statute eliminated the authority to issue Suburban District Bonds, but retained the provision for an annual tax levy not to exceed 30 cents on each \$100 of the assessed value of taxable real and personal property to fund administrative and maintenance operations.

In 1970, when Montgomery County amended the Charter to establish a County Executive form of government, the Suburban District law was amended to designate the County Executive as the executive officer of the District with those duties previously performed by the Council (to set the rate of license fees, promulgate regulations, etc.). However, the Council's power to enact laws relating to public infrastructure in the Suburban District remained essentially unchanged. Two years later, when the County Code was recodified, the chapter on the Suburban District was moved from Chapter 47 to Chapter 68.

In 1972, the County Executive proposed legislation to expand the Suburban District to include the entire County (except for incorporated municipalities and special taxing areas), and to modify the services provided in the District. After a public hearing and extensive debate, the Council voted not to enact the legislation.

The last attempt to modify the boundaries of the Suburban District was in 1988 when the County Executive proposed in his recommended FY89 operating budget that the Suburban District be expanded to include approximately 30 subdivisions west of the District's I-270 boundary. A public hearing on a resolution to authorize the expansion was conducted in June 1988. Council action immediately following the public hearing deferred action one year until FY90. However, the County Executive did not pursue the matter, and his FY90 recommended operating budget did not include any expansion of the Suburban District.

C. Suburban District Tax and Fund

When the Suburban District was created in 1927, the Montgomery County Commissioners were authorized to issue bonds for the purchase of land and the construction and maintenance of roads, streets, bridges, and other infrastructure, and also levy two taxes on real and personal property within the Suburban District. One tax, the rate to be determined by the Commissioners, was to pay the interest on special bonds and to retire those bonds. The other tax, the rate not to exceed 30 cents on each \$100 of assessed value of the property was to provide revenue for services within the Suburban District under four special funds: administrative, road maintenance, street lighting and miscellaneous services. The County no longer issues special Suburban District Bonds for projects within the District. Since 1955, when bonding authority was put into County law, the debt service on County bonds, with some limited exceptions, is funded on a County-wide basis. (An example of one exception is that bonds for projects within a specific Parking Lot District are financed by taxes collected on properties within that specific district).

The other tax to fund services in the Suburban District remains in effect. The statutory limit of the annual Suburban District Tax has remained unchanged since 1927 at 30 cents on each \$100 of assessable value of real and personal property; however, the tax has seldom been set near the limit. In recent years the tax rate has been considerably less than the 30 cent limit. Table 1 reflects the Suburban District assessable base, tax rate and tax levy for the most recent seven fiscal years.

Table 1

Suburban District
Assessable Tax Base
FY86 - FY92^{a)}

<u>FY</u>	<u>Assessable Tax Base</u>	<u>Tax Rate</u>	<u>Tax Levy</u>
1986	\$6,243,732,632	\$0.09	\$5,617,155
1987 ^{b)}	6,778,015,390	0.07	4,744,359
1988	6,243,431,205	0.07	4,370,349
1989	6,701,852,897	0.085	5,696,604
1990	7,266,732,247	0.085	6,176,746
1991	7,979,961,887	0.08	6,383,971
1992	8,690,000,000	0.06	5,204,000

a) FY86-FY91 - actual; FY92 - estimate.

b) In FY87, the three central business districts of Bethesda, Silver Spring and Wheaton were removed from the Suburban District and established as separate Urban Districts. In FY88, Council levied the first taxes in the three Urban Districts.

Sources: Department of Finance reports; Comprehensive Annual Financial reports.

The actual properties on which the Suburban District Tax is levied are identified and grouped into specific tax classes. Within Montgomery County there are approximately 75 separate tax classes. Thirty-eight of these classes are located in lower Montgomery County in the Suburban District and its immediate vicinity. Of these 38 tax classes, properties in 13 receive the special services provided by the Suburban District and are assessed the Suburban District Tax. Properties in the remaining 25 tax classes pay either an Urban District Tax (10 tax classes) or a municipal/special tax. Table 2 (page 8a) is a list of the 38 tax classes in the Suburban District and its immediate vicinity.

It is important to note that within the Suburban District some properties assessed the Suburban District Tax do not receive all of the services funded by that tax. These properties include country clubs

shopping centers; and cemeteries. However, they do receive the other services such as street cleaning on County streets and tree maintenance on the public right-of-way adjacent to their properties.

D. Organization and Services

1. **Urban Maintenance Section.** The revenue collected by the Suburban District Tax is accounted for in a special Suburban District Fund, and is used exclusively to fund services within the Suburban District. These services are provided by the Urban Maintenance Section, an activity of the Division of Operations, Department of Transportation (DOT). Table 3 (page 8b) is a three-year history of revenues of the Suburban District Fund and expenditures by the Urban Maintenance Section. (Note: As will be discussed later in the report, the Urban Maintenance Section also provides services to the three Urban Districts using funds from three separate special Urban District Funds).

The Urban Maintenance Section is organized into three major subdivisions: administration, Bethesda Unit, and Silver Spring Unit. The FY92 authorized personnel complement of the section is 63 full time and 66 part time positions. The large complement of part time positions, used for mowing in the summer (6 positions) and leaf collection in the fall (60 positions), work an average of 6-8 weeks. Table 4 is a listing of the authorized personnel for the Urban Maintenance Section for the seven-year period, FY 1986-FY 1992.

Table 4

Urban Maintenance Section **Personnel Complement** **FY86-FY92**

<u>Fiscal Year</u>	<u>Full-Time Positions</u>	<u>Part-Time Positions</u>	<u>Total Positions</u>	<u>Total Work Years</u>	<u>% Change From Previous Fiscal Year</u>	
					<u>Positions</u>	<u>Work Year</u>
1986	85	10	95	104.2	--	--
1987 ^{a)}	65	8	73	88.0	(23%)	(16%)
1988	65	8	73	80.0	0%	(9%)
1989	67	81	148	93.2	103%	17%
1990	68	66	134	82.4	(9%)	(12%)
1991	68	66	134	85.7	0%	4%
1992	63	66	129	78.7	(4%)	(8%)

a) In FY87, the Urban Maintenance Section was created out of the former Services Section in the Division of Operations, DOT.

Source: OMB: Approved Personnel Complement

Table 2

**Tax Classes in the Suburban District
and its Immediate Vicinity**

<u>Tax Classes</u>	<u>Assessed Suburban District Tax</u>	<u>Assessed Urban District Tax</u>	<u>Excluded from Suburban and Urban District Taxes</u>
9			X Sumerset
14			X Friendship Heights
15			X Drummond
17			X Oakmont
19			X Chevy Chase Village
20			X Chevy Chase Sec. 3
21			X Town of Chevy Chase
22			X Chevy Chase Sec. 5
23			X Village of Martin's Addition
24			X North Chevy Chase
25	X		
26			X Garrett Park
27			X Kensington
28			X Chevy Chase View
29			X Glen Echo
34	X		
35 ^{a)}	X		
36	X		
37	X		
38	X		
39	X		
40	X		
41		X Silver Spring	
46	X		
47		X Silver Spring	
48		X Silver Spring	
56	X		
63	X		
74			X Takoma Park
76		X Bethesda	
78		X Bethesda	
79		X Bethesda	
80 ^{a)}		X Bethesda	
81		X Wheaton	
82		X Wheaton	
83		X Wheaton	
84	X		
85	X	—	—
Totals: 38	13	10	15

a) Battery Park Special Taxing Area is divided between two tax classes: Tax Class 35 which is in the Suburban District and Tax Class 80 which is in the Bethesda Urban District.

Source: Department of Finance Property Tax Schedule.

Table 3

Suburban District
Revenues and Expenditures
FY 1990 - FY 1992^{a)}

<u>Revenues</u>	FY90		FY91		FY92	
	\$	%	\$	%	\$	%
Suburban District Tax (Rate)	\$6,251,321 (0.85)	90.7	\$6,367,238 (0.80)	84.4	\$5,204,310 (0.60)	81.5
Surplus ^{b)}	264,069	3.8	934,218	12.4	1,037,100	16.2
Investment Income	186,927	2.7	243,759	3.2	145,000	2.3
Other ^{c)}	192,500	2.8	0	0	0	0
TOTAL:	\$6,894,817	100.0	\$7,545,215	100.0	\$6,386,410	100.0

<u>Expenditures^{d)}</u>	FY90		FY91		FY92	
	\$	%	\$	%	\$	%
Personnel	\$2,950,327	53.7	\$3,232,070	55.0	\$3,143,460	54.6
Operating Expenses	2,536,255	46.1	2,641,300	44.9	2,611,660	45.4
Capital Outlay	11,885	0.2	6,080	0.1	0	0
TOTAL:	\$5,498,467	100.0	\$5,879,450	100.0	\$5,755,120	100.0

- Notes:**
- a) FY90 and FY91-Actual; FY92-Budget.
 - b) Unexpended funds from the prior year's operating budget.
 - c) End of year adjustments.
 - d) Expenditures are for operational expenses of the Urban Maintenance Section and include contract services and charge-backs to other departments.

Sources: Department of Finance and OMB reports; Comprehensive Annual Financial Report.

2. Services. Before describing the operations of the Urban Maintenance Section, it is important to note that the services currently funded with revenues derived from the Suburban District Tax have little resemblance to the services outlined in the original 1927 Maryland ordinance or the current County statute (Chapter 68, Montgomery County Code). The original Maryland law specified that the revenues collected through the Suburban District Tax would be allocated between four major fund categories: administration, road maintenance, street lighting and miscellaneous. The current County statute states that the Council is authorized to expend the Suburban District tax funds "...for the grading, construction, maintenance or drainage of roads, streets or highways in the Suburban District." (Code Section 68-5)

Many of the services specified in the legislation to be provided in the Suburban District and funded by the Suburban District Tax are no longer unique to the District. For example, road construction and maintenance, new construction of gutters and sidewalks, and street lighting, are provided County-wide by using general revenue funds.

Currently, the following services are provided only in the Suburban District: leaf collection, tree service, street cleaning, and mowing. The only capital improvement projects (CIP) in the past two decades dedicated exclusively to the Suburban District involved the purchase and planting of trees along District streets (FY74: \$20,000), and the renovation and expansion of the Urban Maintenance Section facilities in the Silver Spring Brookeville Road Depot (FY79: \$158,000). A \$1.3 million FY92-FY97 CIP project to plant trees County-wide, to include the Suburban District, was deferred.

Leaf Collection and Recycling

The most visible and popular service provided Suburban District residents is the curbside bulk vacuum collection of leaves. Leaf collection constitutes the largest work activity of the Urban Maintenance Section. Prior to 1992, leaves were collected by vacuum collectors in three cycles, two in the fall and one in the spring. For the FY92 fall collection period, most of the operating staff of the Section, plus a significant augmentation from DOT's Highway Maintenance Section, devoted over five weeks (6 days a week/10 hours per day) to bulk leaf collecting using approximately 50 vacuums.

Once the leaves are collected, they are placed in two holding areas, one at the Brookeville Maintenance Facility and the other at the Gude Yard Waste Site in Rockville. Then, under a contract partially funded with Suburban District taxes, the leaves are transported from the two holding areas to the County's composting facility at Dickerson where they are processed, bagged, and marketed as compost. The County's contract for the transport, composting and marketing of leaves is with the Maryland Environmental Service, and is administered by the Department of Environmental Protection. In FY91, the total cost of the contract was \$747,630. The Urban Maintenance Section's share funded with Suburban District funds was \$316,810

Table 5 illustrates the volume of leaves and the total Suburban District's operating and contract costs for their collection for the most recent five fiscal years.

Table 5

Suburban District
Leaf Collection and Processing
FY87-FY91

FY	Cubic Yards Collected				Total Cost of Collection ^{b)}	Cost Per Cubic Yard
	1st Pickup	2nd Pickup	3rd Pickup	Total ^{a)} for FY		
1987	79,730	26,650	2,680	109,060	\$1,358,229	\$12.45
1988	62,890	32,730	3,630	99,230	1,594,629	16.07
1989	59,110	63,740	1,950	124,800	1,724,819	13.82
1990	55,950	52,210	1,600	109,760	1,748,312	15.93
1991	78,800	38,130	1,610	118,540	2,216,607	18.70

a) The three collections occur in a single fiscal year but span two calendar years. For example, the FY 1987 leaves were collected in two pickups in October-November 1987 and a third pickup in April 1988.

b) Includes the cost of leaf collection and temporary storage at two holding areas (approximately 85% of the cost), and the District's share of the contract cost to transport and process the leaves at the Dickerson Compost Facility (approximately 15%).

Source: Urban Maintenance Section Reports.

The Urban Maintenance Section accepts leaves at their two temporary holding areas from the Maryland-National Capital Park and Planning Commission (M-NCPPC) and five municipalities, where they are added to the County's leaves. The municipalities are charged a fee of \$7.00 per ton to recover the cost of transporting and processing the leaves and marketing the compost. In FY91, almost 18,000 cubic yards were accepted from M-NCPPC and the municipalities and \$102,810 in fees were collected from municipalities. M-NCPPC is not charged a fee; in exchange for accepting leaves from M-NCPPC, the Urban Maintenance Section is permitted to dump wood chips at a M-NCPPC site.

Tree Services

Prior to 1987 when the DOT Services Section became the Urban Maintenance Section, the Services Section had a separate Tree Unit that included over half of the operating staff of the entire Section. In addition to assisting in leaf collection, the Tree Unit was responsible for pruning, tree and stump

removal, pesticide application, and planting of trees.* Today the Urban Maintenance Section is authorized an Arborist and a total of 12 tree service personnel. The Arborist primarily performs field inspections in response to citizen complaints, and the tree personnel only remove trees and perform minimum pruning services. The remainder of the tree services performed in the District is by service contracts. Currently, there are five tree-related service contracts. A description of the contracts and their related costs for the last two fiscal years are at Table 6.

Table 6

Suburban District
Contract Tree Services
FY90 and FY91

<u>Contracted Tree Service</u>	<u>FY90</u>		<u>FY91</u>	
	<u>Approx. # Serviced</u>	<u>\$</u>	<u>Approx. # Serviced</u>	<u>\$</u>
Tree Maintenance (Two separate contracts)	8,070	\$730,803	9,460	\$570,475
Tree Planting (Replace trees on public right-of-way)	500	\$ 40,000	625	\$ 49,950
Tree Spraying	2,980	\$ 31,769	2,680	\$ 29,916
Stump Removal	600	\$ 39,914	714	\$ 49,260
Total Costs:		\$842,486		\$699,601

Source: Urban Maintenance Section.

The Urban Maintenance Section estimates that there are approximately 100,000 trees in the Suburban District. The current cycle of pruning in the District is 10-11 years; the ideal cycle is 4-5 years.

* Street trees are defined as those trees which are located on the public right-of-way.

The Urban Maintenance Section is the repository of two mandatory State permits relating to the service of trees. One permit, the Roadside Tree Care Permit, is required to apply herbicides and to cut, trim, prune, remove or replace any street tree on the public right-of-way. The Chief of the Urban Maintenance Section holds this permit and is designated as the Roadside Tree Care Expert. The other State permit, also issued to the Urban Maintenance Section, is for the application of pesticides.

Other Services

Other services funded by Suburban District taxes include street sweeping, mowing, and trash collection. (Note: other transportation-related services in the District that are provided by the Department of Transportation and funded from general revenue funds include: snow removal; street and road maintenance; and curb, gutter, sidewalk, and storm drain maintenance).

- **Street Sweeping.** Residential streets in the Suburban District are swept two times a year and arterial roads are swept 12 times a year. For the past few years this function has been performed by contract. The cost for residential street sweeping service in FY91 was \$338,761.

- **Mowing.** About 225 acres in approximately 500 locations are mowed between 8-12 times per year by a combination of Urban Maintenance Section staff (85%) and contract services (15%). The total cost of this mowing in FY91 was \$380,193, of which \$59,244 was for the contracted services. (Included in "mowing" service are herbicidal applications on public rights-of-way and trash cleanup on dead ends and mowed areas).

- **Trash Collection.** Prior to FY92, the Urban Maintenance Section serviced by contract approximately 70 receptacles located within the Suburban District at an annual cost of approximately \$30,000. Beginning on July 1, 1991, the service was discontinued and all cans were removed except for seven that are being serviced by nearby businesses.

IV. DESCRIPTION OF THE MONTGOMERY COUNTY URBAN DISTRICTS

A. Overview

In March 1982, the Office of Legislative Oversight published an evaluation of the Suburban District (OLO Report 82-2). A conclusion in the report was that the County had failed to recognize the major impact of rapid urbanization on the three central business districts (CBDs)--Bethesda, Silver Spring and Wheaton. In response to this and other report conclusions, the Executive appointed a task force to make an independent analysis of the OLO recommendation. A June 1983 report of this task force confirmed OLO's conclusion concerning the CBDs and recommended the creation of an urban maintenance district in each of the three CBDs.

There followed many months of meetings involving representatives from government, business, and the three communities to develop legislation that would create and fund a new entity to increase the services in the three CBDs. The result was Bill 9-86, enacted in June 1986, which created an Urban District in each of the business districts of Bethesda, Silver Spring and Wheaton.

B. Legislative History and Code Provisions

Bill 9-86 was introduced in February 1986 and enacted by the Council in June 1986 to be effective in July 1986 (FY87). The bill was codified as Chapter 68A of the Montgomery County Code.

1. **Legislative Finding and Intent.** The Council's finding (Code Section 68A-4), was that certain areas of the County were, or may become, intensely developed communities containing diversified commercial, institutional, and residential development. To maintain and enhance these areas as prosperous, livable urban centers, and to avoid blight, the Council created special districts to provide an administrative and financial framework to accomplish the following goals within each district:

- Increase the maintenance of the streetscape and its amenities;
- Provide additional public amenities, such as plantings, seating, shelters and works of art;
- Promote the commercial and residential interests of these areas; and
- Program cultural and community activities.

2. **Three Urban Districts Created.** The legislation immediately created the Bethesda, Silver Spring, and Wheaton Urban Districts. For FY87, the Council appropriated \$322,914 for the Bethesda Urban District and \$291,042 for the Silver Spring Urban District by transferring parking fee revenues from their respective Parking Lot Districts. The Council did not appropriate any funds for the Wheaton Urban District in FY87. In FY88, the Council levied a tax and approved a budget for each of the Districts.

3. **Urban District Boundaries.** The boundaries of the three Urban Districts generally parallel the Parking Lot Districts of their respective areas. At Exhibit A is a map of the County showing the location of each of the three Districts. At Exhibits B, C and D are sketch maps showing the boundaries of each of the three Urban Districts and their respective Parking Lot Districts.

4. **Purpose of the Urban Districts.** The specific legislative purpose for the Urban Districts (Code Section 68A-3) was to create an administrative and financial framework through which to provide public services and facilities that primarily benefit the property and persons within the Districts. Also, these public services and facilities were to be in addition to those that the County provided generally. The legislation provided for many uniform characteristics, activities and services among the three Districts. However, the legislation also recognized that there were fundamental differences in the history, character and level of development among the three, and made allowances for those differences.

The specific public services and facilities authorized in the legislation fall under four broad categories:

- **Maintenance.** Streetscape and streetscape amenities on the public right-of-way and property used by the general public, to include: cleaning, repairing, rehabilitating or replacing streetscape amenities;*
- **Promotion.** Promoting and programming public interest, recreational and cultural activities, and commercial and other special events that benefit both residential and commercial interests;
- **Additional public facilities.** Providing additional streetscape amenities up to \$200,000 annually in each District; and
- **Safety and Security.** Monitoring activities to enhance safety and security of persons and property in public areas.

5. **Administrative and Operational Support Services.** The law authorizes the County Executive to designate a County department or office to perform the functions required by the legislation (Code Section 68A-1(1)). Because of the similarities of functions and the proximity to the Suburban District, the Executive assigned responsibility for administrative and operational support to DOT's Services Section, and changed its name to the Urban Maintenance Section.

Administrative support services are primarily in the form of staff support to the Urban District Advisory Committees, budget preparation, fund management, and management of the various service contracts.

Operational support services include maintenance activities performed under contracts managed by the Urban Maintenance Section, minimal direct services, and services performed by the Department of Transportation (DOT). Contracts for services provided in the Urban Districts that are managed by the Urban Maintenance Section include: streetscape maintenance (mowing, trash receptacles, tree maintenance, litter collection, and sidewalk cleaning), street sweeping, and tree planting. Other services provided the Urban Districts that are performed or managed by DOT include: promotion and programming of public interest activities; curb and sidewalk repair; routine road maintenance (resurfacing, pothole repair, etc.); roadway snow removal; and street light maintenance services.

* Streetscape amenity includes such items as bulletin boards and electronic displays; containers for growing things; functional and decorative lighting; seating and other street furniture; pedestrian shelters; sidewalks; trees and other plantings; trash containers; works of art; and any outdoor item that an optional method developer agreed to install and maintain as a condition of site plan approval (Code Section 68A-1(8)).

It is important to note that the law authorizes DOT, at its discretion, to maintain streetscape amenities on "any property used by the general public" (Code Section 68A-3(c)(1)). Currently, the Urban Maintenance Section does not maintain any streetscape amenities that are used by the public if the amenities are located on private property.

6. Funding and Budgets of the Urban Districts. All services performed in the three Districts are funded from separate Urban District Special Revenue Funds. The sources of these funds are an Urban District Tax, parking fees, and maintenance fees on optional method development (Code Section 68A-4).

- **Urban District Tax.** Since FY88, the Council has levied a separate special tax against all assessable real and personal property in each of the three Urban Districts. The tax is limited to 30 cents on each \$100 of assessable property, and is levied and collected as other County taxes. The tax rates may differ from one District to another.

- **Parking Fees.** The legislation authorizes the Council to transfer revenue to the Urban Districts from parking fees of the three Parking Lot Districts from which the fees are collected. (No transfer is made from parking fees from the Montgomery Hills Parking Lot District). The amount of revenue from parking fees that is authorized in the legislation (Code Section 68A-4(a)(2)) to be transferred must not be greater than the amount calculated by multiplying the number of parking spaces in the particular Urban District by the number of enforcement hours per year and then multiplying by 10 cents.

- **Maintenance fees on Optional Method Development.** A charge is made against optional method developers for the cost of maintaining off-site amenities.* The maintenance charge may be collected in the same way that county taxes are collected, and bears the same interest and penalties as County taxes. (Optional method development is discussed in detail later in this chapter).

To safeguard against either the Urban District Tax or the parking fees being used exclusively, the law (Code Section 68A-4(b)) specifies that the proceeds from the tax and parking fees transferred into the respective Urban District Fund must each be not more than eighty percent of their combined total.

Separate Urban District Funds have been established for each District, and can be used only for the District in which they were obtained and for the purposes set forth in the Code. Surplus funds in a District at the end of the fiscal year can be used only to fund the budget of that District in the subsequent fiscal year.

* An off-site amenity is defined in the legislation as a streetscape amenity installed by an optional method developer on a public right-of-way. In contrast, an on-site amenity is a streetscape amenity installed by an optional method developer on property owned by that developer or on other private property.

7. Urban District Advisory Committees. The legislation establishes an advisory committee in each Urban District (Code Section 68A-5). Committee members are appointed by the County Executive, confirmed by the County Council, and serve a three-year term without compensation. Appointments to the respective Urban Districts are as follows:

<u>Category</u>	<u>Bethesda</u>	<u>Silver Spring</u>	<u>Wheaton</u>
Nominated by the respective Chamber of Commerce - - - - -	2	2	2
Represent Optional Method Developers - - - - -	3	3	0-1-2*
Represent a business with fewer than ten employees- - - - -	1	1	2
Represent a residential community in the Urban District - - - - -	1	1	1
Represent a residential community in or outside the Urban District and nominated by the respective Citizens Advisory Board - - - - -	<u>1</u>	<u>1</u>	<u>1</u>
TOTAL:	8	8	6-7-8

* If no OMD = 0; if one OMD = 1; if two or more OMD = 2.

The duties of the Urban District Advisory Committees are (Code Section 68A-5(c)):

- Advise the County government on all aspects of the program, management and finances of the District; and
- Advise, review and resolve differences concerning the programs and budgets of the District.

A unique provision in the legislation concerns the advisory committees' role in the preparation of the annual budget of their respective District (Code Section 68A-7). The legislation specifies that each Urban District Advisory Committee have an opportunity to review and comment on the annual budget of their District. In the event the advisory committee and the Executive disagree on any provision of the District's budget, the County Executive must specifically note the area of disagreement in the final recommended budget that is submitted to the Council.

C. Urban District Funding

1. **Overview.** As stated earlier, the three primary sources of revenue for each Urban District Fund are: a District tax, parking fees, and maintenance fees from optional method development. Additional revenue has come from investment income, surplus funds carried over from the prior year, and miscellaneous funds from liquidated prior year encumbrances.

Expenditures of Urban District funds are for services provided by the Urban Maintenance Section of the Department of Transportation (DOT). Services include administration and contract management, maintenance services on the public right-of-way performed by contract or by other County entities, minimum direct maintenance services, and contracted promotional activities.

Following are four tables detailing the revenue and expenditures for the three Urban Districts. Table 7 (page 17a) contains combined revenue and expenditure data for the three Districts for three fiscal years FY90, FY91 and FY92. Tables 8, 9 and 10 are revenue and expenditure data for the same three fiscal years for the Bethesda Urban District (page 17b), the Silver Spring Urban District (page 17c), and the Wheaton Urban District (page 17d).

An analysis of the four tables reveals the following:

- Transferred parking fee revenues from the Parking Lot Districts constitute the largest single source of revenue for each Urban District.
- Maintenance fees from optional method development (OMD) in the Bethesda and Silver Spring Urban Districts have decreased in each of the past two fiscal years. (There is no optional method development in the Wheaton Urban District). These lower fees reflect lower streetscape maintenance contract costs.
- Expenditures have slightly increased each fiscal year; however, expenditure levels vary among the Urban Districts.
- Most of the expenditures are for operating expenses to pay for contracted services, as highlighted on Tables 8, 9 and 10 for the FY92 approved budgets of the three Districts.

Table 7

Total of the Three Urban Districts
Revenues and Expenditures
FY 1990 - FY 1992^{a)}

Revenues

	FY90		FY91		FY92	
	\$	%	\$	%	\$	%
Urban Districts' Taxes	\$ 979,513	32.5	\$ 960,141	27.9	\$ 540,190	17.3
Parking District Fees	1,464,930	48.6	1,424,650	41.4	1,500,000	48.1
OMD Maintenance Fees ^{b)}	283,663	9.4	215,073	6.3	162,620	5.2
Investment Income	64,388	2.0	115,970	3.4	27,000	0.9
Surplus ^{c)}	(5,408)	(.02)	651,723	18.9	887,970	28.5
Miscellaneous ^{d)}	227,083	7.5	72,020	2.1	0	0
TOTAL:	\$3,014,169	100.0	\$3,439,577	100.0	\$3,117,780	100.0

Expenditures

	FY90		FY91		FY92	
	\$	%	\$	%	\$	%
Personnel Services	\$ 265,783	11.7	\$ 289,329	12.1	\$ 291,030	10.5
Operating Expenses	1,953,711	86.1	2,105,702	88.0	2,420,560	87.5
Capital Outlay	49,473	2.2	(2,550)	(<.01)	55,000	2.0
TOTAL:	\$2,268,967	100.0	\$2,392,481	100.0	\$2,766,590	100.0

Source: Department of Finance and OMB reports; Comprehensive Annual Financial Reports.

- a) FY90 and FY91 - Actual; FY92 - Budget.
- b) Optional Method Development fees for streetscape maintenance.
- c) Unexpended funds from the prior year's operating budget.
- d) Cancellation of prior year encumbrances.

Table 8

Bethesda Urban District
Revenues and Expenditures
FY 1990 - FY 1992^{a)}

Revenues

	FY90		FY91		FY92	
	\$	%	\$	%	\$	%
Urban District Tax (Rate)	\$ 528,069 (0.70)	34.9	\$ 506,882 (.065)	30.2	\$ 168,810 (.020)	12.4
Parking District Fees	565,480	37.3	466,720	27.8	553,940	40.6
OMD Maintenance Fees ^{b)}	179,049	11.8	143,044	8.5	110,970	8.1
Investment Income	39,326	2.6	70,759	4.2	15,000	1.1
Surplus ^{c)}	22,346	1.5	452,539	26.9	516,230	37.8
Miscellaneous ^{d)}	179,828	11.9	40,413	2.4	0	0
TOTAL:	\$1,514,098	100.0	\$1,680,357	100.0	\$1,364,950	100.0

Expenditures

	FY90		FY91		FY92 ^{e)}	
	\$	%	\$	%	\$	%
Personnel Services	\$ 112,504	11.1	\$ 120,679	11.3	\$ 97,620	7.9
Operating Expenses	865,838	85.5	951,163	90.0	1,108,000	90.0
Capital Outlay	34,473	3.4	(2,550)	2.3	25,000	2.1
TOTAL:	\$1,012,815	100.0	\$1,069,292	100.0	\$1,230,620	100.0

Source: Department of Finance and OMB reports; Comprehensive Annual Financial Reports.

- a) FY90 and FY91 - Actual; FY92 - approved Budget.
- b) Optional Method Development assessment for streetscape maintenance.
- c) Unexpended funds from the prior year's operating budget.
- d) Cancellation of prior year encumbrances.

- e) At right is a detailed breakdown of the FY92 approved budget:

Activities	\$	%
Staff Support	\$ 97,620	7.9
Promotions	250,000	20.3
Litter Control	188,000	15.3
Sidewalk Repair	180,000	14.6
Tree Planting	124,000	10.1
Other Maintenance	85,050	6.9
Street Sweeping	70,000	5.7
Tree Maintenance	65,000	5.3
Sidewalk Cleaning	63,000	5.1
Signage	50,000	4.1
Other Operating	32,950	2.7
Capital Outlay	25,000	2.0
Total:	\$1,230,620	100.0

Table 9

Silver Spring Urban District
Revenues and Expenditures
FY 1990 - FY 1992^{a)}

Revenues

	FY90		FY91		FY92	
	\$	%	\$	%	\$	%
Urban District Tax (Rate)	\$ 347,446	27.6	\$ 346,109	24.1	\$ 268,110	19.2
	(.070)		(.070)		(.050)	
Parking District Fees	781,180	62.1	788,670	54.8	777,560	55.7
OMD Maintenance Fees ^{b)}	104,614	8.3	72,029	5.0	51,650	3.7
Investment Income	21,993	1.8	39,110	2.7	10,000	0.7
Surplus ^{c)}	(25,823)	(2.0)	166,149	11.5	288,710	20.7
Miscellaneous ^{d)}	28,132	2.2	27,584	1.9	0	0
TOTAL:	\$1,257,542	100.0	\$1,439,651	100.0	\$1,396,030	100.0

Expenditures

	FY90		FY91		FY92 ^{e)}	
	\$	%	\$	%	\$	%
Personnel Services	\$ 132,279	12.6	\$ 135,371	12.1	\$ 148,360	12.1
Operating Expenses	905,607	86.0	977,811	87.9	1,056,310	85.9
Capital Outlay	15,000	1.4	0	0	25,000	2.0
TOTAL:	\$1,052,886	100.0	\$1,113,182	100.0	\$1,229,670	100.0

Source: Department of Finance and OMB reports; Comprehensive Annual Financial Reports.

- a) FY90 and FY91 - Actual; FY92 - approved Budget.
- b) Optional Method Development assessment for streetscape maintenance.
- c) Unexpended funds from the prior year's operating budget.
- d) Cancellation of prior year encumbrances.

e) At right is a detailed breakdown of the FY92 approved budget:

Activities	\$	%
Staff Support	\$ 148,360	12.1
Promotions	300,000	24.4
Litter Control	270,500	16.9
Sidewalk Repair	160,000	13.0
Other Maintenance	145,000	11.8
Sidewalk Cleaning	73,500	6.0
Street Sweeping	71,280	5.8
Tree Plant & Maint.	65,000	5.3
Other Operating	34,030	2.7
Capital Outlay	25,000	2.0
Total:	\$1,229,670	100.0

Table 10

**Wheaton Urban District
Revenues and Expenditures
FY 1990 - FY 1992^{a)}**

Revenues

	FY90		FY91		FY92	
	\$	%	\$	%	\$	%
Urban District Tax (Rate)	\$103,998 (.090)	42.9	\$107,150 (.090)	33.5	\$103,270 (.080)	28.9
Parking District Fees	118,270	48.8	169,260	53.0	168,500	47.2
OMD Maintenance Fees ^{b)}	0	0	0	0	0	0
Investment Income	3,069	1.3	6,101	1.9	2,000	0.6
Surplus ^{c)}	(1,931)	(<.01)	33,035	10.3	83,030	23.3
Miscellaneous ^{d)}	19,123	7.9	4,023	1.3	0	0
TOTAL:	\$242,529	100.0	\$319,569	100.0	\$356,800	100.0

Expenditures

	FY90		FY91		FY92 ^{e)}	
	\$	%	\$	%	\$	%
Personnel Services	\$ 21,000	10.3	\$ 33,279	15.8	\$ 45,050	14.7
Operating Expenses	182,221	89.7	176,728	84.2	256,250	83.7
Capital Outlay	0	0	0	0	5,000	1.6
TOTAL:	\$203,221	100.0	\$210,007	100.0	\$306,300	100.0

Source: Department of Finance and OMB reports; Comprehensive Annual Financial Reports.

- a) FY90 and FY91 - Actual; FY92 - approved Budget.
- b) Wheaton has no Optional Method Development.
- c) Unexpended funds from the prior year's operating budget.
- d) Cancellation of prior year encumbrances.

- e) At right is a detailed breakdown of the FY92 approved budget:

Activities	\$	%
Staff Support	\$ 45,050	14.7
Sidewalk Repair	60,000	19.6
Litter Control	57,500	18.9
Promotions	40,000	13.0
Other Maintenance	38,200	12.5
Street Sweeping	35,100	11.6
Tree Maintenance	17,500	5.7
Other Operating	7,950	2.6
Capital Outlay	5,000	1.6
Total:	306,300	100.0

2. Urban District Taxes. The County Code authorizes a special tax on all assessable real and personal property in each of the three Districts. The tax is limited to 30 cents on each \$100 of assessable property, is levied and collected as other taxes, and can differ from one District to another. Table 11 is a tabulation of the assessable base, tax rate and tax levy of each District for the five fiscal years that an Urban District tax has been collected.

Table 11

Urban Districts
Assessable Tax Base, Tax Rate and Tax Levy
FY 1988 - FY 1992^{a)}

Fiscal Year	<u>BETHESDA</u>			<u>SILVER SPRING</u>			<u>WHEATON</u>		
	Assessable Base (\$000)	Tax Rate	Tax Levy	Assessable Base (\$000)	Tax Rate	Tax Levy	Assessable Base (\$000)	Tax Rate	Tax Levy
1988 ^{b)}	\$594,872	.07	\$416,412	\$384,166	.07	\$268,917	\$ 97,409	.09	\$ 87,669
1989	695,328	.07	486,731	406,116	.07	284,282	107,157	.09	96,422
1990	763,893	.07	534,726	463,139	.07	324,198	115,372	.09	103,835
1991	798,895	.065	519,282	502,239	.07	351,568	120,328	.09	108,295
1992	860,000	.02	168,810	530,000	.05	268,110	128,000	.08	103,270

a) FY88-FY91 - actual: FY92 - estimated assessable base and budgeted tax levy.

b) FY88 was the first year of a tax in the three Districts. However, in FY87, Bethesda and Silver Spring Urban Districts received \$322,914 and \$291,042, respectively, in transferred parking fees.

Sources: Comprehensive Annual Financial Reports and FY92 Recommended Operating Budget.

3. **Parking Fees.** The three Urban Districts receive parking fee revenues transferred from their corresponding Parking Lot District. County Code Section 68A-4(a)(2) specifies a formula for determining the maximum amount of revenue that can be transferred from parking fees to an Urban District to be as follows: the number of usable parking spaces in the particular Parking Lot District, multiplied by the number of enforcement hours per year, and then multiplied by 10 cents. To date, the County has not transferred the maximum amount authorized by the legislation.

The current number of enforced parking spaces in the three applicable Parking Lot Districts are shown on Table 12.

Table 12

**Total Number of Enforced Parking Spaces
and Approximate Enforcement Hours for
the Bethesda, Silver Spring and Wheaton Parking Lot Districts
(FY92)**

<u>Parking Lot District</u>	<u>Number of Enforced Spaces*</u>	<u>Approximate Enforcement Hours</u>
Bethesda	5,598	12,467,000
Silver Spring	7,283	13,320,000
Wheaton	1,141	2,542,000

* The total number of parking spaces is greater than the number of enforced spaces. Approximately 15% of the total parking spaces in Bethesda and Silver Spring are not open to the public, and are, therefore, not considered enforced spaces.

Source: DOT Parking Lot District report.

Table 13 provides a comparison of the total parking fees collected in the Bethesda, Silver Spring and Wheaton Parking Lot Districts and the amount and percentage of those parking fees that were transferred in FY90 and in FY91 to the respective Urban Districts. The data show that the total amount transferred varies considerably among the Districts, and that in FY91 the amount transferred as a percentage of the total parking fees collected declined slightly from FY90.

Table 13

Parking Lot Districts
A Comparison of Total Parking Fees Collected
and Parking Fees Transferred to the Three Urban Districts
FY90 - FY91

	Total Collected	Total Transferred	% Transferred
BETHESDA			
Parking Fees FY90:	\$3,157,409	\$565,480	17.9%
Parking Fees FY91:	3,030,271	466,720	15.4%
SILVER SPRING			
Parking Fees FY90:	\$3,572,510	\$781,180	21.9%
Parking Fees FY91:	3,686,199	788,670	21.4%
WHEATON			
Parking Fees FY90:	\$254,663	\$118,270	46.4%
Parking Fees FY91:	463,013	169,260	36.6%
COMBINED DISTRICTS			
Parking Fees FY90:	\$6,984,582	\$1,464,930	21.0%
Parking Fees FY91:	7,179,483	1,424,650	19.8%

Source: Comprehensive Annual Financial Reports, FY90 and FY91.

The Code stipulates another condition relating to transferred parking fees. Code Section 68A-4(c) limits the proceeds from the Urban District Tax and the transferred parking fees to no more than eighty percent of their combined total. A review of Tables 8, 9 and 10 indicates that the relationship between parking fees and tax levies in the three Urban Districts vary widely. For example, in FY91 that relationship was as follows:

Urban District	Combined Total \$ Urban Tax/Parking Fees	Urban Tax		Parking Fees	
		\$	%	\$	%
Bethesda	\$ 973,602	506,882	52.1%	466,720	47.9%
Silver Spring	1,134,779	346,109	30.5%	788,670	69.5%
Wheaton	276,410	107,150	38.8%	169,260	61.2%

The closest that the combination of urban tax and parking fees has come to the statutory eighty percent limit is in the FY92 approved budget of the Bethesda Urban District, with the parking fees budgeted at 77 percent, and the tax at 23 percent.

4. Maintenance Fees on Optional Method Development (OMD). The Urban District legislation gives the County Executive the option of performing streetscape maintenance on amenities on the public right-of-way, and assessing the OMD developer for those services. Since enactment of the legislation, the Executive has opted to have the maintenance services performed by the Urban Maintenance Section and to charge the OMD developers for the services. Before discussing OMD maintenance fees, however, it is important to understand what exactly is "optional method development".

D. Optional Method Development

1. **Overview.** Chapter 59, Zoning, of the County Code, authorizes the Montgomery County Planning Board to approve development under optional method of development procedures (Code Section 59-D-2.0). Optional method development (OMD) applies to five central business district (CBD) zones and six residential mixed use development (RMX) zones.

Under the optional method of development, the Planning Board permits greater densities than under the standard method of development. In exchange, the Planning Board requires that the developer provide certain public facilities and amenities. The presence of these facilities and amenities is intended to make possible "...the creation of an environment capable of supporting the greater densities and intensities of development permitted" (Code Section 59-C-6.215(b)).*

2. **Additional density permitted.** The additional density permitted under the optional method of development in the CBD zones is in the form of additional floor area as expressed as a floor area ratio (FAR). The FAR is a figure which expresses the gross floor area as a multiple of the gross tract area of the lot. The FAR is determined by dividing the gross floor area of all buildings on a lot by the total area of that lot. Under Code Section 59-C-6.23, the maximum additional density of development in three CBDs is as follows:

<u>Commercial Zone</u>	<u>Method of Development</u>	
	<u>Standard</u>	<u>Optional (OMD)</u>
CBD - 1	FAR = 1	FAR = 2
CBD - 2	FAR = 2	FAR = 4
CBD - 3	FAR = 3	FAR = 6

Thus, in the Bethesda and Silver Spring Urban Districts where optional method development has occurred in the CBD-1, CBD-2 and CBD-3 zones, the developers have been able to as much as double the total gross floor area of their commercial buildings.**

* Public facilities and amenities may include, but are not limited to, green area or open space which exceeds the minimum required, with appropriate landscaping and pedestrian circulation; streetscaping such as street plantings, furniture, and lighting; provision of space with commitment for public performances and events, vending and recreation; and finally, dedicated uses open to the public such as museums, art galleries, cultural arts centers, community rooms, recreation areas, and child or elderly day care. (Code Section 59-A-2.1)

** Currently, 15 optional method developments have been constructed in the Bethesda Urban District and nine in the Silver Spring Urban District.

3. Planning Board requirements. The Planning Board has published specific procedures and requirements for submitting an application for optional method development. One of these requirements is the submission of a project plan prior to submission of a site plan. The project plan must contain sufficiently detailed information on program development to ensure that the OMD will include the public facilities, amenities and other design features that will support the greater densities requested by the developer.

After the Planning Board approves the project plan, the site plan process must be completed. Board approval of the site plan requires that the developer enter into a Site Plan Enforcement Agreement (Code Section 59-D-3.3). The combination of the staff report and Board approval of the project plan, the Board approval of the site plan, the site plan enforcement agreement, and the signature set of site plan drawings constitute the record of how the site will be developed, what specific public facilities and amenities the developer must provide, and where these facilities and amenities must be located.

4. OMD in Bethesda and Silver Spring Urban Districts. In the Bethesda and Silver Spring Urban Districts, the Montgomery County Planning Board has approved optional method development in commercial zones CBD-1, CBD-2 and CBD-3. Major commercial development in these two Districts in the past decade has been almost totally under the optional method. As stated previously, the developers receive additional density in exchange for providing public facilities and amenities either on-site (on property owned by the developer or on other private property) or off-site (on the public right-of-way). In addition to providing the facilities and amenities, the OMD developer is also required to provide perpetual maintenance.*

5. Maintenance services provided. With a few minor exceptions, all maintenance services of OMD streetscape amenities are performed under contract. The services vary, but generally include sidewalk cleaning (twice yearly), periodic landscaping (mulch, fertilizer), daily litter collection, trash receptacle services (three times a week), tree maintenance and replacement, globe cleaning and streetlight maintenance, and mowing. The Urban Maintenance Section administers the contracts and assesses each OMD developer a proportionate charge.

6. Maintenance Fees. Under an option permitted in the Urban District legislation, the County has assumed responsibility for maintaining streetscape amenities on the public right-of-way, assessing a quarterly charge to the OMD developers for that maintenance service. The legislation also authorizes the collection of the County's cost of liability insurance, which the County assesses to the OMD developers. However, the County also assesses an administrative and overhead charge to the developers that is not specifically authorized in the legislation.

* When the first projects were developed under the optional method in the late 1970's, the developer agreed to maintain the public facilities and amenities; however, the agreements were not in writing. Beginning in the mid-1980's, general maintenance responsibilities were specified in the various approving documents of the Planning Board. (See Chapter V for a fuller discussion on OMD maintenance agreements).

- **Maintenance Services.** Maintenance charges are computed according to the square footage of streetscape, the number of trees, the number of trash receptacles, etc. Actual billing and collections are made by the Department of Finance.

- **Insurance.** The County's Office of Risk Management annually assesses the Urban Maintenance Section an annual contribution to the Self Insurance Fund. The Urban Maintenance Section in turn allocates a percentage of that assessment to the Suburban District and to each of the three Urban Districts. In FY92 the proportional share was: Suburban District - 90 percent, Bethesda and Silver Spring Urban Districts - four percent, and the Wheaton Urban District - two percent. Within the Bethesda and Silver Spring Urban Districts a portion of the four percent is further assessed to the optional method developments. As an example, in the Bethesda Urban District, the FY92 insurance assessment to OMD properties is \$2050, prorated to each property owner according to the square footage of streetscape amenity on the OMD property.

- **Overhead.** Each OMD property is assessed an administrative overhead charge for Urban Maintenance Section management and administration of the contracted services provided the optional method developments. This charge is also prorated among the OMDs on the basis of the size of the streetscape amenity.

Currently, OMD maintenance fees are billed quarterly and charges are assessed in three categories: service fees, insurance and overhead. (See Exhibit E for an example of the optional method development billing in the Bethesda Urban District for the period July 1, 1991 to September 30, 1991).

As reflected in Table 7 (page 17a), the total OMD maintenance fees collected in the Bethesda and Silver Spring Urban Districts have declined in each of the last two fiscal years: FY90: \$283,663; FY91: \$215,073 (-24%); and FY92 (budgeted): \$162,620 (-24%). In addition, OMD maintenance fees as a percentage of total revenues for the Bethesda and Silver Spring Urban Districts for the same two fiscal years have also declined: FY90: 10.2%, FY91(-6.9%), and FY92 (budgeted)(-5.9%).

The decline in OMD maintenance fees is a reflection of the lower cost of the contracted services and uncollected fees from one OMD property that has been sold to the federal government (National Oceanic and Atmospheric Administration), and two other properties that are several months in arrears of over \$31,000.

V. EVALUATION OF THE MONTGOMERY COUNTY SUBURBAN DISTRICT

A. Overview

In March 1982, the Office of Legislative Oversight issued a report evaluating the Suburban District (OLO Report 82-2). The major conclusion of the report was that the Suburban District was an anachronism. OLO concluded that the circumstances and situations that existed in 1927 that necessitated the creation of the Suburban District no longer existed in 1982. Examples

cited in the 1982 report that supported this conclusion were: the urban area of the County was significantly larger than the original area identified in the 1927 law; with very few exceptions, the "special" services, laws, and regulations of the original Suburban District were generally applicable County-wide; and the level of services authorized under the 1927 law were inadequate to the needs of the three central business districts (CBD's) located within the Suburban District.

The overall conclusion of this 1992 OLO evaluation is that the Suburban District remains an anachronism. The type and frequency of services currently funded by the Suburban District tax have been drastically reduced; the two most visible services that continue to be provided, leaf collection and recycling and tree service, are scheduled to be expanded beyond the District's boundaries; and the major urbanized portions of the Suburban District, the Bethesda, Silver Spring and Wheaton business districts, have been separated from the Suburban District and reconstituted as Urban Districts with their own independent taxes and budgets.

The remainder of this chapter will present in more detail the changing characteristics of the County and the District which have led OLO to conclude that the concept of a Suburban District is archaic. The concept of a Suburban District and the current Suburban District law are out of date. Specifically:

- Urbanization in the County has expanded beyond the District's statutory boundaries;
- The Suburban District law does not accurately reflect the current purpose and intention of the District;
- There has been a reduction in the type and the frequency of services provided to Suburban District taxpayers; and
- The two principal services currently provided Suburban District taxpayers (leaf collection and recycling and tree maintenance), are scheduled to be expanded beyond the District's statutory boundaries.

B. Expanded Urbanization of the County

The Suburban District was originally created in response to the growing urbanization of the lower portion of the County. The original purpose for creating a special taxing area was to enable the controlled development and funding of the public infrastructure necessitated by that urbanization. The laws, regulations and programs that were instituted in the subsequent decades permitted the District to grow and develop in a controlled manner.

In the 65 years since the District was created, other areas of Montgomery County have also dramatically grown and developed and become urbanized. However, the expanded urbanization of the County in the 1970's and 1980's was neither included in an expanded Suburban District, nor funded as a special taxing area similar to the Suburban District. Today the current statutory borders of the Suburban District (see Exhibit A) clearly do not reflect the limits of urbanization in the County.

Many of the regulatory requirements and services that were once unique to the Suburban District have been applied to these new urban areas of the County and are being funded with general revenue funds. Consequently, a major result of the expanded urbanization and the changes in County policy concerning the funding for services in these urbanized areas renders the Suburban District law no longer current.

C. The Purpose and Intention of a Suburban District Has Changed

Legislation creating the Suburban District in 1927 empowered the County Commissioners to prescribe in law standards affecting the kind, size and character of buildings to be erected in the Suburban District; to require licensing for the purpose of regulation or revenue every kind of business, public amusement, signs and sign boards, and health facility in the District; and to provide a variety of special services for residents of the District.

Currently, practically all the standards, regulations, licensing requirements and services that are prescribed in the legislation for the Suburban District, now apply to the entire County. Examples include the prohibition on open fires; licensing of places of amusement, hospitals and homes for the aged; regulations pertaining to trade and business activities; and a variety of public works such as street lighting, refuse collection, and road, gutter and sidewalk construction and repair.

D. The Type and Frequency of Services Provided in the Suburban District Have Changed

Of the many services specified in the Suburban District law to be provided exclusively in the District and funded out of the Suburban District Special Revenue Fund, only four are currently provided: street cleaning, mowing, tree services, and leaf collection and recycling. Prior to FY92, a fifth service was provided, emptying approximately 70 trash receptacles located on residential streets of the District at an annual cost of approximately \$30,000. The Urban Maintenance Section eliminated the service for budgetary reasons, and is not recommending that the service be reinstated in FY93.

1. **Street Cleaning.** Only a minimal level of street sweeping is provided in the District. Under a service contract, residential streets in the District are swept twice a year, and arterial roads, 12 times a year. The cost of this service in FY91 was \$338,761. In OLO's opinion, this service should be eliminated. As in the case of the elimination of residential trash receptacles, street sweeping residential streets is not a critical service. Except for roadways in the Urban Districts and some municipalities, residential streets and arterial roads in the remainder of the County are not swept. (The Maryland Department of Transportation reports that they sweep State highways in the County four times a year).

2. **Mowing.** Currently, about 225 acres in approximately 500 locations are mowed between 8-12 times each summer by a combination of Urban Maintenance Section staff (85% of the effort) and by contract personnel (15%). In OLO's opinion, mowing areas within the Suburban District should be added to the mowing areas that are currently the responsibility of the Department of Transportation (DOT), and funded with general revenue funds. (DOT annually mows approximately 1,900 acres outside the District).

3. **Tree Services.** Except for emergencies, tree service by the County is provided only on the public right-of-way in the Suburban District.* The services provided include pruning, tree and stump removal, spraying and planting. The majority of these services are provided by contract. Despite tree-related expenditures of over \$800,000 in FY90 and \$700,000 in FY91, the level of service is significantly less than what is considered minimal. As stated earlier in Chapter III, the current cycle of pruning is every 10-11 years, while the ideal is every 4-5 years.

4. **Leaf Collection.** As stated previously, the most visible and popular service provided Suburban District residents is the curbside bulk collection and recycling of leaves. Up until this year, bulk leaves had been collected within the District three times each year, twice in the fall and once in the spring, using large mobile vacuums. After collection, and temporary storage at two holding areas, the leaves were transported to the Dickerson Compost Facility, where they were processed and marketed as compost. However, beginning in 1992, the method of collecting leaves in the spring has been changed.

In April 1992, the spring collection of leaves in the Suburban District will not be collected curbside by mobile vacuums. Instead, Suburban District residents who choose not to compost will be required to place their leaves at curbside in kraft paper bags (available at local grocery and hardware stores) where the contractors of the Division of Solid Waste Management (DEP) will collect the bags and recycle them in the same manner as yard waste is processed. This change in the manner leaves are collected in the spring is part of a County-wide yard waste recycling program, which is currently scheduled to begin on January 1, 1993. As of this writing there is no plan to eliminate the fall bulk collection by vacuum in the Suburban District. The Department of Environmental Protection considers the volume of leaves collected through the leaf vacuuming program critical to yard waste composting, as leaves provide the carbon bulking agent to mix with grass.

E. The Two Primary Services Currently Provided in the Suburban District, Tree Services and Leaf Collection and Recycling, are Scheduled to be Expanded Beyond the District's Boundaries

* The Urban Maintenance Section also responds to emergency requests for tree removal outside the Suburban District, charging-back the cost of the service to the appropriate agency. Tree service is also provided in the three Urban Districts, primarily under contracts that are funded from the appropriate Urban District Special Revenue Fund.

1. Tree Services. In recent years, the County has focused new energy and legislation on preserving and increasing the tree population of the County. An April 1990, Tree Report issued by the Tree Ordinance Drafting Group* called for a greater emphasis on tree conservation and reforestation, upgrading and expanding tree maintenance, and other tree-related initiatives.** The Tree Report addressed the maintenance of street trees both within the Suburban District and outside the Suburban District.

According to The Tree Report, street trees within the Suburban District number about 100,000 and have an average age of about 30 years. As discussed previously, part of the Suburban District tax is used to maintain street trees, but the frequency of maintenance is significantly less than required. The Report estimates that currently only one young tree is replanted for every three mature trees that die.

The Tree Report estimates that street trees outside the Suburban District number about 150,000. Although these trees are considerably less mature than those found within the Suburban District (in the 5-15 year age range), they should be under a tree maintenance program. However, there is neither a public tree maintenance program, nor a private program to cover street trees outside the Suburban District. (At Exhibit F is an extract of The Tree Report describing in more detail street trees outside the Suburban District).

The Tree Report recommends a comprehensive street tree package: a special tax district, a special tax, and a tree maintenance unit. Specifically, the Report recommends creation of a Tree Maintenance District encompassing the Suburban District area and the developed and developing areas outside the District. Within the District a special tax would be levied to fund street tree maintenance to be performed by personnel of a newly created Tree Maintenance Division within DOT or by contract. As of this writing, the only formal action taken on any of the Report's recommendations has been the approval of a capital improvement project (CIP) in FY92 to plant 400 street trees a year for a six-year period. The initial \$100,000 appropriated for FY92 has been frozen; however, the project has been recommended in the FY93 CIP at \$100,000.

* The Tree Ordinance Drafting Group was organized at the joint request of the Council's Planning, Housing, and Economic Development (PHED) Committee and Transportation and Environment (T&E) Committee. Membership included representation from County agencies, environmental and citizen groups, and the development community.

** The County has recently enacted several laws, a subdivision regulation, and a zoning text amendment concerning forest conservation and related tree issues. The Maryland General Assembly has also enacted legislation on this matter (State Forest Conservation Act, effective July 1, 1991). One recently enacted County law addresses the planting of street trees (those trees that are located within the public right-of-way) as part of the construction of roads (Bill 49-91, effective July 1, 1992).

OLO does not take a position on the recommendations of The Tree Report relating to the creation of a Tree Maintenance District, a Tree Maintenance Division or a special tax to fund a street tree maintenance program. However, OLO does agree with the following fundamental concepts underlying The Tree Report's recommendations:

- Street trees are a valuable and aesthetic environmental asset and should be preserved through an appropriate level of maintenance;
- The existing street tree maintenance program is minimal in the Suburban District and non-existent in the area outside the Suburban District; and
- The County should develop a County street tree maintenance and replacement program that applies to street trees within the Suburban District and outside the District's boundaries.

Accordingly, OLO believes that as a minimum, the current Suburban District street tree maintenance program should be expanded beyond the District into the developed and developing areas of the County. Funding for the tree maintenance program both within and outside the Suburban District should be from the County's general revenues or, as recommended in The Tree Report, by a special dedicated tax.

2. Leaf Collection and Recycling. With Council's enactment of Bill 54-88, Solid Waste Recycling, in August 1989, and its adoption of Resolution 12-327, Implementation of Multi-Materials Recycling Program, in August 1991, the County's recycling efforts were significantly expanded. One of the categories of recyclable solid waste that received particular attention was yard waste.* To encourage the systematic recycling of yard waste, the County's Comprehensive Solid Waste Management Plan was amended by the Council to prohibit the dumping of yard waste at the County's transfer station, landfill, or resource recovery facility after January 1, 1993. To implement this policy, the Executive Branch developed a County-wide yard waste recycling program to remove substantially all yard waste from the solid waste stream.** The most recent County plan for curbside collection of yard waste is reflected on the map at Exhibit G.

The initiation of the County's yard waste recycling program presents an opportunity to develop a uniform leaf collection and recycling program in the County that includes the area inside the Suburban District and the developed and developing areas outside the District. The advantages of an expanded and standardized leaf collection and recycling program include:

* Yard waste includes leaves, brush and tree cuttings, grass clippings, plants and garden trimmings.

** A recent study of yard waste recycling commissioned by the Department of Environmental Protection indicates that yard waste makes up 18 percent of the total waste flow on an annual average, and 25 percent of the waste flow in late spring.

- A significantly higher percentage of leaves would be removed from the solid waste stream. The Department of Environmental Protection estimates that, with only 50% participation, curbside collection of leaves outside the Suburban District in 1993 would only be 30,000 cubic yards.

- A guaranteed supply of leaves would be available to make a grass recycling program feasible. To recycle grass into a usable and acceptable (for odor) product requires that grass clippings be mixed with leaves at a minimum ratio of 1:2 (grass to leaves) by volume. To meet this ratio, it is essential that leaves be collected and recycled from areas of the County both within and outside the Suburban District.

- That residents inside and outside the Suburban District would have the same type leaf collection service. There is a perceived inequity between the leaf collection service within the District that permits leaves to be raked to curbside for vacuum collection, and a leaf collection service outside the District that requires leaves be bagged and placed at curbside. Not only is there more work involved in bagging leaves, but also, at the current cost of 50 cents for a 30-gallon kraft paper bag, bagging leaves for many households may be more expensive than paying the Suburban District tax for bulk collection.

A detailed cost benefit analysis would be required to determine the capital and labor costs of vacuum collection compared to bagged collection. (The Urban Maintenance Section has an inventory of 50 vacuums representing a capital investment of approximately \$700,000). However, OLO suggests that as the County expands the yard waste recycling program, consideration should be given to standardizing the leaf collection and recycling programs both within and outside of the Suburban District.

Note: Under current policy, the collection of residential recyclables, including yard waste, is funded through the Solid Waste Disposal Fund. Also, as stated earlier, the Council has established a ban on dumping yard waste in the landfill effective January 1, 1993. However, the County Executive has proposed in his Recommended FY93 Operating Budget (March 1, 1992, pp. 60-14 to 6-16), that, because of a decline in the solid waste tonnages and tipping fees, expansion of the recycling program be deferred. At this time, OLO has no indication whether this will affect the expansion of the yard waste recycling program and the January 1, 1993 ban.

F. Summary

OLO believes that the County Executive and County Council should review whether to expand or eliminate the Suburban District. Considering that essentially only two County services set the District apart from the rest of the County, street tree service and leaf collection and recycling, and that both of these services are scheduled to be expanded into County-wide services, this may be the appropriate time for such review.

VI. EVALUATION OF THE MONTGOMERY COUNTY URBAN DISTRICTS

A. Overview

This chapter evaluates the Montgomery County Urban Districts using the following criteria:

1. The degree in which the goals of the Urban District legislation are being fulfilled;
2. The efficiency of the administrative and financial framework established in the Urban Districts to accomplish the legislative goals; and
3. The effectiveness of Urban District funding.

B. Fulfilling the Goals of the Legislation

The intent of the Council in creating the Urban Districts in those areas of the County experiencing intense development was to provide an administrative and financial framework to accomplish the following four specific goals:

- Increase the maintenance of the streetscape and its amenities;
- Provide additional public amenities;
- Promote the commercial and residential interests of these areas; and
- Program cultural and community activities.

On the basis of personal interviews, document review, and site visits, it is OLO's opinion that these goals are being met. OLO's opinion is also based on a comparison of the Urban Districts as they are now with the conditions a decade earlier in the three central business districts.

As discussed earlier, in 1982 OLO published a report on the Suburban District that concluded the County had failed to recognize the changes that METRO and commercial development had brought to the Suburban District's three Central Business Districts (CBDs): Bethesda, Silver Spring and Wheaton. The report documented that the County had not provided increased services, especially in the areas of streetscape maintenance and litter control, in the three CBDs. The OLO report recommended that the Suburban District legislation be modified to authorize a higher level of services in the three Central Business Districts.

Over the next four years, representatives of County government, primarily the Department of Transportation, the CBD commercial and residential communities, and the Montgomery County Planning Board developed the concept and crafted the legislation that created a special Urban District in each of the three CBDs.

The majority of those interviewed by OLO in both County government and the private sector agree that the Urban District concept is basically sound. They point to the streetscape improvements, community activities and cultural events, and the art projects and other public amenities that have already occurred in the Districts, or are planned for the future. However, the progress is not equal in all three Districts. The Bethesda Urban District is conspicuously farther along in streetscape installation, public amenities and promotional programs.

Not surprisingly, some of the same persons who support the Urban District concept and applaud its accomplishments feel that even more should be accomplished. Expanded streetscape projects, improvements in maintenance and litter control, additional public amenities, and more frequent cultural and community activities were among the issues most often cited. Also, there is concern over the level of administrative support and responsiveness by County agencies to Urban District needs. Members of the Bethesda Urban District Advisory Committee that were interviewed criticized the slowness of County government in approving Committee requests, perceiving administrative and financial roadblocks in the process. These criticisms relating to the administrative and financial framework of the Urban District are examined below.

C. Efficiency of the Administrative and Financial Framework Within the Districts

Since their creation, responsibility for providing administrative and operational support to the Urban Districts has been assigned to the Department of Transportation (DOT). All administrative support and most operational support have been provided by DOT's Urban Maintenance Section,* to include: management of a variety of streetscape maintenance activities on the public right-of-way and limited direct maintenance services. In addition, operational support to the Urban Districts is provided by other elements of DOT, such as, highway maintenance, pedestrian and bicycle walkway maintenance and snow removal.

Included in the types of administrative support provided by the Urban Maintenance Section are: staff support to the Urban District Advisory Committees; preparing Urban District budgets, monitoring budget expenditures and Urban District fund balances; coordinating actions of the Urban District Advisory Committees with other governmental policy-making and service delivery elements; and promoting public interest activities that benefit both the residential and commercial communities of the Urban Districts.

The assignment of administrative support of the Urban Districts to DOT was logical in that the Department of Transportation had been the principal agency involved in developing the concept of Urban Districts. In addition, the majority of the operational functions performed in the Urban Districts are statutorily the responsibility of DOT. Also, DOT had established special "action groups" within each Urban District to accelerate County government's response to the District's needs.

* At the time the Urban Districts were created, DOT changed the name of its Services Section to the Urban Maintenance Section.

Notwithstanding the relative success of the administrative support arrangement that has been in place for the past five years, it is OLO's opinion that DOT now should be relieved of that responsibility, and should concentrate on providing operational support that is commensurate with its primary mission. Replacing DOT as the agency responsible for providing administrative support to the three Urban Districts should be the Government Services Center (GSC) in which the specific Urban District is located.

Specifically, the County Executive should assign responsibility for administrative support to the Director of the Government Services Center in which each Urban District is located. No legislation would be required to make this change in assignment in that the Urban District law leaves responsibility for administrative support to the discretion of the Executive. Assigning administrative support to the GSC Directors would provide the Urban Districts higher visibility within the County government and would free the Department of Transportation from responsibilities unrelated to its statutory mission.

Following are detailed OLO observations supporting the transfer of Urban District administrative support responsibility from the Director, Department of Transportation to the Director of the appropriate Government Services Center.

1. Consistent with current GSC responsibilities. Adding responsibility for providing administrative support of the Urban District to the appropriate Government Services Center (GSC) Director would be consistent with the current mission of those Center Directors to coordinate improved policy-making and service delivery among public agencies serving the larger regions in which the Urban Districts are located.

The Directors of the GSCs have been selected for their ability to analyze and formulate public policy; coordinate public service delivery, information exchange and problem resolution; and articulate County government programs and services. The Directors are already assigned responsibility for administrative support of their respective Citizens Advisory Board. There is a close connection between the Urban District Advisory Committees and the regional Citizens Advisory Boards. Both the Committees and the Boards are concerned with the program and service needs of their areas. Also, each of the three Urban District Advisory Committees has one member nominated by the respective Citizens Advisory Board in which the Urban District is located.

Finally, the Directors of the Governmental Services Centers in the three Urban Districts are responsible for coordinating project selection for the Neighborhood Initiatives project. Although funding for FY92 and FY93 has been deferred, the Neighborhood Initiatives project is designed to identify and implement through citizen participation previously unaddressed capital improvement projects. Coordination of capital and operational improvements in the Urban District would be a logical extension of the GSC directors' coordination responsibilities for the Neighborhood Initiatives projects.

OLO recognizes that adding the responsibility of administrative support of the Urban District Advisory Committees will necessitate additional resources be given the three Government Services Centers. Funding for these additional resources should come from the appropriate Urban District Special Revenue Fund.

2. Provide Urban Districts higher visibility. A repeated criticism from members of the Bethesda Urban District Advisory Committee was the frustration over the failure of the County agencies to implement projects the Committee had requested. The members were consistent in their criticism of how long it takes for County agencies to react to requests from the Urban District Advisory Committee for projects that have already been approved in the budget and for which funds have been appropriated.

The Committee members' suggested solution to this problem was that County government should approve and fund an executive director's position in each Urban District. In the view of the Committee members, an executive director hired by the Committee, under the Committee's direct control, and answerable only to the Committee, would provide each Urban District Advisory Committee the necessary "clout" to successfully process their requests through the County government bureaucracy.

OLO does not agree with the members' suggestion that each Urban District Advisory Committee have authority and funds to hire its own executive director. The responsibility of the Advisory Committee is, as the title clearly states, "advisory". The Committees' function is not governance. Had the Council desired something more than advice from the Urban District Advisory Committees, it could have included such provisions in the Urban District legislation.

OLO believes that assigning the Directors of the Government Services Centers responsibility for administrative support to the respective Urban District Advisory Committees would go a long way toward satisfying the Committees' desire for higher visibility and "clout" in that the Directors of the Government Services Centers report directly to the Chief Administrative Officer.

3. Free the Department of Transportation (DOT) from non-mission related responsibilities. As stated earlier, the DOT Director played a major role in the creation and development of the Urban Districts. This, coupled with the fact that the majority of the operational support functions in the Urban Districts fall under DOT's legislative responsibilities (roads, transportation, maintenance on the public right-of-way, etc.), it was natural that DOT was given responsibility for administratively supporting the Urban Districts. However, administrative support of the Districts necessitates that DOT perform non-mission related functions, such as managing promotional activities in each of the Districts.

- Promotional activities are contracted in the Silver Spring Urban District at an annual cost in excess of \$250,000. Although DOT has contract management responsibility for the promotion activities, through an informal arrangement, the promotions contract is managed on a day-to-day basis by an employee of the Department of Housing and Community Development (DHCD).*

- Promotional activities in the Bethesda Urban District are also by contract, at an annual cost of \$230,000. This contract is managed on a day-to-day basis by a private consultant under contract to DOT. The annual cost of the contract to manage the Bethesda Urban District promotions contract is approximately \$12,000.

Transferring administrative support of the Urban Districts to the Directors of the Government Services Centers would enable the Directors to manage the promotional contracts in their region. In addition, the transfer would relieve a DHCD employee from contract management duties in the Silver Spring Urban District, relieve a DHCD employee from promotional duties in the Wheaton Urban District, and enable the County to cancel the contract with the private consultant currently managing the Bethesda Urban District promotions contract.

4. Reduce the number of statutory and ad hoc Government-supported groups. Within each Urban District and its corresponding Government Services Center area, there are currently a minimum of three government supported groups:**

- Urban District Advisory Committee (DOT-supported);
- Citizens Advisory Board (GSC-supported); and an
- Action Group (DOT-supported).

Assigning responsibility for administrative support of the Urban District Advisory Committees to the Director of the appropriate Government Services Center (GSC) would complement the Director's current responsibility for administrative support of the Citizen Advisory Board in its region. Not only would this action add to the clarity of County government's role in

* Promotional activities in the Wheaton Urban District are also the responsibility of a DHCD employee. Promotional events are charged directly to the Wheaton Urban District Fund. The level of promotional activity is significantly less in the Wheaton Urban District than in the other two districts (FY90-\$26,880, FY91-\$28,900 and projected for FY92-\$40,000).

** OLO is also aware of an ad hoc Bethesda Work Group comprised of representatives of the Urban District, Cultural District Committee, Chamber of Commerce, Community Advisory Committee and residential communities. As of this writing, the Work Group has not formally issued a report; however, the Group's conclusions and recommendations will undoubtedly affect services in the Bethesda central business district.

supporting these groups, it would facilitate closer coordination within each GSC region. However, consolidation should be accomplished only after a detailed review of the groups' current function. As an example, OLO recognizes that the Citizens Advisory Boards have a regional advisory role beyond the Urban District boundaries.

OLO envisions that the three DOT-supported action groups could be dissolved and the DOT personnel currently administering those action groups, plus the Urban Maintenance Section personnel currently providing administrative support to the Urban District Advisory Committees, could be returned to DOT mission duties.

There are a number of other private and public organizations in the Urban Districts that have a strong interest and participate in the affairs of their respective Districts. As an example, in the Bethesda Urban District are the Bethesda Chevy-Chase Chamber of Commerce, the Bethesda Ever Green, and The Bethesda Coalition.

The proliferation of public agencies and organizations in the down-County area apparently has also come to the attention of the County Executive. In his March 1, 1993, message transmitting the FY93 Operating Budget, the County Executive included a recommendation under Organization Inter-Agency and Other Structures, that in FY94 a new structure be established in each of the three central business districts (Bethesda, Silver Spring and Wheaton). The goal of the new organization would be to end the proliferation of committees, advisory boards, action groups, and even districts, and establish a single organizational structure. The Executive anticipates forwarding a more complete proposal to the Council in early May. (See VOL I, pp 62-63, Recommended FY93 Budget).

D. The Effectiveness of Urban District Funding

1. **Overview.** Chapter IV of this report described in detail the following sources of funds for the Urban Districts: an Urban District Tax; parking fees transferred from the appropriate Parking Lot District; and, where applicable, maintenance charges on optional method development. Additional revenue is realized in the form of interest income on investments and transfer of surplus funds from a prior year's budget. A review of Tables 8 through 10 illustrates that the major sources of funds in all three Urban Districts are the transferred parking fees, and, to a lesser extent, Urban District taxes.

It is OLO's opinion that the funding of the Urban Districts is sound and, with one exception, should continue in its current arrangement. The one exception is that the maintenance charges for optional method development currently collected in the Bethesda and Silver Spring Urban Districts should be phased out; and future development under the optional method not include a perpetual maintenance requirement.

Specific OLO observations supporting the finding that funding of the Urban District with special taxes and transferred parking fees is a sound policy are:

- The Urban District Tax and the transfer of parking fees is a fair and equitable method of generating revenue for projects and programs within the respective Urban Districts.

- The Urban District legislation provides sound safeguards for guaranteeing a revenue base for the Urban District: a limit on the Urban District Tax rate of 30 cents per \$100 of assessed property value; a limit of 10 cents that can be transferred for each enforceable parking space hour; and the requirement that the proceeds from the Urban District Tax and the transferred parking fees must each be not more than eighty percent of their combined total.

- Other provisions of the law that reinforce the soundness of current method of funding the Urban Districts include, the requirement that the Urban District Tax rate may differ among the Districts; and that Urban District funds are separately accounted for, must be used in the District in which they were obtained, and only for Urban District purposes.

2. Discontinue Assessing Maintenance Fees on Optional Method Development. County Code Section 68A-4(a)(3) gives the County Executive the option of charging each optional method development (OMD) the cost of maintaining OMD off-site amenities, that is, a streetscape amenity on a public right-of-way. The law also authorizes the charges to include the County's cost of liability insurance. Currently, the County is assessing the cost of maintenance and liability, plus an administrative overhead charge, to optional method developments in the Bethesda and Silver Spring Urban Districts. For the reasons outlined below, OLO believes that these maintenance charges should be discontinued, and funds necessary to maintain streetscape on the public right-of-way should be funded from the Urban District Tax by assessing all property owners in the District, and/or from transferred parking fees.

- **The County receives a relatively fair exchange for permitting OMD developers extra density.** In exchange for extra density, the Montgomery County Planning Board requires a variety of public facilities and amenities. These facilities and amenities may include placing utilities underground; installing special (and more costly) benches and decorative light fixtures; on-site art and public walkways; and a variety of streetscape amenities (sidewalk pavers, trees, soil enhancements, plantings, etc.). The public facilities and amenities are installed on-site (on the developer's property), or off-site (on the public right-of-way adjoining the developer's property). In addition, the Planning Board may require the OMD developer to install streetscape amenities on a public-right-of-way not adjoining the OMD development.

In OLO's opinion, the County receives a relatively fair exchange for the extra density permitted the OMD developer without charging, in perpetuity, streetscape maintenance fees. The developer pays for all capital costs of the on-site and off-site amenities, pays for the maintenance of the on-site amenities and artwork, and also pays the additional property and Urban District taxes on the added density. It seems inappropriate for the County to exercise the option permitted in the Urban District legislation (Code Section 68A-4(a)(3)a) to also assess maintenance fees for OMD

developer-installed off-site streetscape amenities. If the County has a concern as to the quality and vitality of the OMD developer-installed streetscape amenities, it could require the developer to post a cash bond or an irrevocable letter of credit to cover an initial 24 or 36 month period after installation of the amenities.

● Maintenance fees appear to constitute a "double charge" to OMD developers. In addition to paying a maintenance fee on off-site streetscape maintenance, which includes liability and administrative overhead costs, the optional method development is assessed the general County property tax and the Urban District Tax in the same manner as is other development in the Urban District. Many of the other Urban District properties that were developed under the standard method of development, or were developed prior to introduction of OMD in late 1970's, also have streetscape amenities installed on the public right-of-way adjoining their property. However, these amenities were either installed by the County or by an OMD developer at the direction of the Montgomery County Planning Board as a condition for approval of the optional method of development. Maintenance costs for streetscape amenities installed by the County or installed prior to the introduction of OMD are paid for by all Urban District taxpayers, including OMD developers.

● The method of computing some components of the maintenance charge appears imprecise. The method of computing the liability component of the maintenance charge (authorized in the law) and the administrative overhead component (not authorized in the law) are imprecise. The current method of computation is based on a percentage of the overall liability and administrative costs incurred by the Urban Maintenance Section. Although OMD maintenance fees have been assessed for some time, the percentage distribution of liability and overhead charges continues to vary. The percentage assessed the Bethesda and Silver Spring Urban Districts in FY91 for liability and overhead was 15 percent, but in FY92 it was four percent.

● Not all OMD developers have signed maintenance agreements. Beginning in the mid-1980's with the rapid development in the Bethesda Urban District, the Montgomery County Planning Board required an OMD developer to sign a Site Plan Enforcement Agreement that specifically referred to the OMD developer's obligation to maintain public amenities. Prior to that time, OMD developers were not required to execute a maintenance agreement. However, there is a question as whether the Site Plan Enforcement Agreement or any of the other documents or plans required by the Planning Board legally binds the OMD developer to perpetual maintenance in that the agreements do not include any language in contract format that expressly spells out the perpetual maintenance responsibilities of the OMD developer.

● Not all OMD properties are paying maintenance charges and the County has not used the collection provisions of the legislation. Of the 14 OMD properties in the Bethesda Urban District and eight in the Silver Spring Urban District that should be paying maintenance fees, four properties are not currently being charged:

- One OMD property in Silver Spring was sold to the federal government and the County ceased billing for maintenance fees;

- Two properties in Bethesda are in some stage of bankruptcy or receivership and have not paid for several months; and
- One property in Bethesda received a use-and-occupancy permit several months ago; however, billing for maintenance has not been initiated.

County Code Section 68A-4(a)(3) authorizes the County Executive to collect the maintenance charges in the same way that the County collects taxes, to include interest and penalty charges. The County has chosen not to collect maintenance fees on the tax bill and has, as of this writing, not opted to add interest or a penalty to maintenance charges that are in arrears. (The next chapter, Related Issues, includes a discussion of OMD maintenance billing and collection procedures, and OMD property purchased by the federal government).

VII. RELATED ISSUES

A. Overview

This chapter of the report discusses several items that, while not directly a part of an evaluation of the Suburban and Urban Districts, are closely related. The following related matters are presented here and discussed in more detail in subsequent paragraphs:

- Coordination between the Maryland-National Capital Park and Planning Commission's (M-NCPPC) Urban Design Division and the Department of Transportation's Urban Maintenance Section.*
- Enforcement of subdivision regulations.
- Billing and collecting procedures for optional method development maintenance fees.
- Other development projects within the Suburban and Urban Districts.

B. Coordination between the Urban Design Division, M-NCPPC, and the Urban Maintenance Section, DOT

As discussed in detail earlier in this report, the installation of public facilities and amenities in the Urban Districts through the optional method of development has contributed to the number and variety of streetscape and public art projects both on private property and on the public right-of-way; has heightened commercial and community interest in the Urban Districts; and has expanded cultural and community activities. The staff agency responsible for providing these facilities and amenities is the Urban Design Division of the Montgomery County Planning Department, M-NCPPC. The staff agency responsible for maintaining those amenities installed on the public right-of-way is the Urban Maintenance Section of the Department of Transportation.

* All references to the Maryland-National Capital Park and Planning Commission relate to the Montgomery County Planning Department component.

The Urban Design Division is responsible for negotiating with the OMD developer the amount and type of public facilities and amenities that must be provided for the OMD developer to receive additional density. In addition, the Urban Design Division is responsible for the various staff reports required by the project plan and site plan review/approval process; and once the development has received Planning Board approval and construction begins, the Urban Design staff is responsible that the project is constructed according to the approved site plan. Finally, the Urban Design Division maintains an inventory of projects that are pending, under construction, and completed under the optional method of development.

The Urban Maintenance Section of DOT is responsible for all streetscape maintenance on the public-right-of-way regardless of whether the streetscape facilities were installed by an OMD developer or by the County. In addition, the Urban Maintenance Section is responsible for compiling the quarterly charges that OMD developers must pay the County for the maintenance services performed on the OMD developer-installed streetscape.

When OLO examined the relationship between the two staff agencies relating to OMD developer-installed streetscape amenities, there appeared to be a lack of both informal and formal coordination. The following examples illustrate that lack of coordination:

- The Urban Design staff does not coordinate with the Urban Maintenance Section on the type of nursery stock that they specify be placed on the public right-of-way. However, after installation of the streetscape plantings, the Urban Maintenance Section is responsible for their maintenance. Over the years, Urban Maintenance Section staff have identified plantings that are less adaptable to streetscape uses; however, some of the plant varieties continue to be specified.

- There is no formal procedure for the Urban Design staff to notify the Urban Maintenance Section staff that a specific project is being developed under the optional method and hence will require that the Urban Maintenance Section eventually assume maintenance responsibility for any streetscape amenities on the public right-of-way. A signature set of site plans is not consistently provided the Urban Maintenance Section. Also, once an OMD project is completed, there is no formal procedure to inform the Urban Maintenance Section that streetscape maintenance billing should begin. During the conduct of the OLO evaluation it was revealed that the Urban Maintenance Section had been performing streetscape maintenance for several months on a site in the Bethesda Urban District without realizing that the property had been developed under the optional method and the developer should have been billed.

- The Urban Design Division requires a series of plans and documents from OMD developers: a project plan, site plan, site plan enforcement agreement, etc. These plans and documents, plus the opinions of the Montgomery County Planning Board, refer in general terms to the OMD developer's responsibility for maintenance of all developer-installed off-site and on-site public facilities and amenities. However, there is no record document that contains express language in a legal contract format that

specifies the OMD developer's maintenance obligations. The execution of such a contract document by the Urban Design Division, in coordination with the Urban Maintenance Section, would provide the County a legal document to enforce the collection of fees for maintenance services performed by the Urban Maintenance Section.

C. Enforcement of Subdivision Regulations

Code Section 59-D-3.6, Failure to Comply, outlines a procedure that the Planning Board must follow when it finds that the terms, conditions and restrictions upon which the site plan was approved are not being followed. Briefly, those procedures require due notice of non-compliance, a hearing, and a decision by the Planning Board. Should the Board find that the terms and conditions of the site plan are not being followed, the Board may approve a plan of compliance or revoke approval of the site plan. Should the Board decide to revoke approval of the site plan, the Board would request the County's Department of Environmental Protection (DEP) to invalidate all applicable building permits and use-and-occupancy permits issued pursuant to prior Board approval of the site plan.

The invalidation of a use-and-occupancy permit for failure to comply with the terms and conditions of the approved site plan is, in OLO's opinion, appropriate action for serious deviations for non-compliance. However, invalidating a use-and-occupancy permit appears to be too severe to be a practical means of enforcing non-compliance for such conditions as the failure of an OMD developer to complete installation of public facilities or to maintain amenities. A Board decision to revoke approval of the site plan and subsequent request to invalidate the use-and-occupancy permit of an occupied commercial building for failure to maintain trees, plantings or other streetscape in the public right-of-way would, in OLO's opinion, most likely never happen.

The Planning Board's limited range of enforcement powers were recognized by a recent task force examining Article 28, Regional District Act, of the Maryland Annotated Code. In its September 1991 report, the task force recommended that the Planning Board be given authority to impose civil monetary fines, penalties, and stop-work orders for a violation of subdivision regulations. A bill currently before the 1992 Maryland General Assembly (PG/MC 38-92), includes provisions to give the Planning Board those enforcement powers.

D. Billing and collecting procedures for Optional Method Development maintenance fees

There is an apparent lack of coordination among departments of the Executive branch for the billing, collection and enforcement of charges due the County for maintenance services on streetscape installed by OMD developers and maintained by the Urban Maintenance Section. The current responsibilities are as follows:

● Urban Maintenance Section, DOT: calculates for each OMD developer the assessment for maintenance services provided. The charges vary by type service provided (trash receptacles, litter pickup) and the size of area serviced (number of trees, square footage of brick sidewalk washed). After adding a proportional share (based on square footage of streetscape) of the liability insurance and overhead is added to the service charges, the maintenance assessments are grouped by Urban District (Bethesda or Silver Spring) and forwarded quarterly to the Department of Finance for billing.

● Department of Finance. The quarterly charges are received in the Division of Accounting, Department of Finance, where bills are prepared and mailed to the appropriate debtor. When payment is made, it is received by the Division of Revenue, Department of Finance, and deposited in the Bethesda or Silver Spring Urban District Fund, depending on the location of the OMD.* For those payments not received, the Division of Accounting, on the next quarterly billing, includes a statement of bills not paid. If the payment is not received within a 30-day period, the debtor is re-billed monthly. When any account is not paid for one year, the Division of Accounting sends the record to the Delinquent Accounts Section of the Department of Finance's Division of Revenue where attempts are made to collect the unpaid balance. Throughout the process, the Urban Maintenance Section is not informed on accounts that are paid or are in arrears.

The above process is informal and appears to work for those accounts that are paid in a reasonable time. However, when payments are not received after one year, the process appears to break down. The following two examples illustrate that conclusion:

● OMD-developed property sold to the Federal Government. A commercial building developed under the optional method in Silver Spring was completed in early 1987, and the Urban Maintenance Section began performing streetscape maintenance. The Urban Maintenance Section prepared an assessment of charges for services performed during the period January-June 1987, and a bill was sent to the commercial developers by the Division of Accounting. When the bills went unpaid for a year the Delinquent Accounts Section was informed and it was determined from correspondence with the original developer that the building had been sold to the General Services Administration (GSA).

The County began billing the GSA, but with no success. In October 1990, the Division of Accounting was informed by the Urban Maintenance Section that no future billings should be made for fees past due or for any future maintenance. While not specifically stated in the correspondence to the Division of Accounting, the Urban Maintenance Section reported to OLO that it believed the fees could not be collected because the building was owned by the federal government. To date, after four years, maintenance services continue to be performed by the Urban Maintenance Section on the OMD developer-installed streetscape, but maintenance fees are no longer billed or collected from either the original OMD developer or the GSA.

* There is currently no OMD in the Wheaton Urban District.

OLO is not questioning whether GSA, a federal agency, is exempt from the payment of maintenance fees. However, OLO does question why the decision was made in the Urban Maintenance Section to stop billing the GSA. There is no record of either the Urban Maintenance Section or the Delinquent Accounts Section requesting an opinion from the County Attorney on this matter. Nor is there any record that either the Urban Design Division or the Montgomery County Planning Board's legal staff were contacted for an opinion since it was the Board that originally imposed the maintenance requirement on the OMD developer and required that the streetscape be maintained.

● OMD-developed property in bankruptcy or receivership. Two properties developed under the optional method of development in the Bethesda Urban District are currently in arrears in the payment of maintenance fees. Recently, both accounts have been referred to the Department of Finance's Delinquent Accounts Section, but no collections have been made. When questioned by OLO, a Delinquent Accounts Section staff member reported that he believed at least one of the properties is in some stage of bankruptcy, but was not aware that the County Attorney had been informed so legal action could be initiated to safeguard the County's interest.

In the opinion of OLO, the above two examples indicate that the agencies involved in the assessment, billing, and collection for maintenance charges should develop, with assistance from the County Attorney's Office, a formal procedure to ensure that all payments due the County are collected or that appropriate and timely legal action is initiated when payments are not received.

E. Other development/revitalization projects within the Suburban and Urban Districts

There are a number of other development/revitalization projects within the Suburban District and in the Silver Spring and Wheaton Urban Districts. These projects, which are the responsibility of the Department of Housing and Community Development, include streetscape improvements (new sidewalks, benches, trees, planters, etc.), street lighting, and undergrounding of utilities. Three projects within the Districts are at Piney Branch-University Boulevard and Piney Branch-Flower Avenue in Silver Spring, and at Viers Mill and Randolph Roads in Kensington/Wheaton. Funding for these projects are from private contributions, Community Development Block Grants, and general obligation bonds. Although Suburban and Urban District funds are not used in the construction of these projects, Suburban District funds are used to maintain the streetscape in these projects.

VIII. CONCLUSIONS

A. Montgomery County Suburban District

1. The Montgomery County Suburban District is an anachronism. The circumstances and conditions that existed in 1927 and necessitated the creation of the Suburban District do not exist in 1992.

2. The services and regulatory functions provided currently in the Suburban District are not an accurate reflection of what is specified in County Code Chapter 68, Montgomery County Suburban District.

3. Urbanization in Montgomery County has expanded well beyond the Suburban District's statutory boundaries.

4. The two services currently provided Suburban District taxpayers that sets the District apart from the rest of the County, leaf collection and recycling and street tree maintenance, are scheduled to be expanded beyond the District's statutory boundaries to other urbanized sections of the County.

5. Funding for an expanded leaf collection and recycling program and street tree maintenance services should be from either a general revenue or a special tax fund that is levied in all areas of the County that receive these services

B. Montgomery County Urban Districts

1. County Code Chapter 68A, Montgomery County Urban Districts, specifies an appropriate set of goals and provides a suitable administrative and financial framework to accomplish those goals.

2. The goals enumerated in the Urban District legislation are being met, albeit in varying degrees, among the three individual Districts.

3. The Urban Maintenance Section of the Department of Transportation currently has responsibility for administrative support of the Urban Districts, a responsibility that is more in line with the mission assigned to the Directors of the Government Services Centers.

4. The Department of Transportation has other responsibilities in the Urban Districts that do not directly relate to the Department's statutory mission; specifically, administrative support of the three Urban District Advisory Committees and management of promotion contracts.

5. There are a number of statutory and ad hoc government-supported organizations and groups in the Urban Districts that appear to have overlapping functions and responsibilities.

6. The current policy of charging optional method developers a fee for maintaining streetscape amenities which the developer installed on the public right-of-way should be discontinued because the County benefits from these public amenities and the maintenance fees appear to constitute a double charge to the developers.

7. There is a lack of coordination between the Urban Design Division, M-NCPPC, and the Urban Maintenance Section, DOT, on matters relating to optional method development.

8. There is a lack of coordination among Executive Branch departments/offices in activities relating to billing, collecting and enforcing payments due the County from optional method developers for streetscape maintenance services.

IX. RECOMMENDATIONS

A. Montgomery County Suburban District

1. Under the provisions of County Code Section 68-7, the County Council should adopt a resolution abolishing the Suburban District.
2. The two major services currently provided the District, leaf collection and recycling and street tree maintenance, should be continued inside the former Suburban District and expanded to the other developed and developing areas of the County.
3. The County Council should establish a policy on how leaf collection and recycling and street tree maintenance services will be funded.

B. Montgomery County Urban Districts

1. The County Executive should relieve the Urban Maintenance Section of the Department of Transportation from its responsibility for administrative support of the Urban Districts, and, under the provisions of Code Section 68A-1(1), designate the Director of the Government Services Center in which each Urban District is located responsibility for administrative support of that District.
2. The Department of Transportation should be relieved of all other responsibilities in the Urban Districts that do not directly relate to the Department's statutory mission, such as management of promotion contracts.
3. All statutory and ad hoc government supported organizations and groups in the Urban Districts should be reviewed and consolidated where duplication and overlap of functions and responsibilities are found.
4. The County should discontinue charging optional method developers a fee for maintaining streetscape amenities which the developer installed on the public right-of-way; the costs associated with all streetscape maintenance should be charged equitably to all Urban District property owners and funded from the appropriate Urban District Special Revenue Fund.
5. The Urban Design Division, M-NCPPC, and the Urban Maintenance Section, DOT, should develop coordination procedures for all matters relating to optional method development in the Urban Districts.
6. The appropriate elements of the Departments of Finance and Transportation and the Office of the County Attorney should develop coordination procedures for billing, collecting and enforcing payments due the County from optional method developers for streetscape maintenance services.

X. AGENCY COMMENTS ON DRAFT REPORT

On March 30, 1992, OLO circulated a draft of this report to the Chief Administrative Officer, appropriate Executive Branch staff, the Chairman, Montgomery County Planning Board and appropriate Commission staff, and to the Council Staff Director. All technical corrections received orally or in writing are incorporated into this final report. Written comments received on the draft report are included below in their entirety.



Montgomery County Government
ROCKVILLE, MARYLAND 20850

MEMORANDUM

April 20, 1992

TO: Andrew Mansinne, Jr., Director
Office of Legislative Oversight

FROM: William H. Hussmann
Chief Administrative Officer 

SUBJECT: DRAFT OLO Report #91-8, A Description and Evaluation of the Montgomery County Suburban District and Urban Districts

Thank you for the opportunity to comment on the Draft OLO Report #91-8, A Description and Evaluation of the Montgomery County Suburban District and Urban Districts. This report provides a comprehensive description and evaluation of the Suburban District and Urban Districts. The comments from the Department of Transportation, the Department of Environmental Protection, the Bethesda-Chevy Chase Government Services Center, the Silver Spring Government Services Center, the Wheaton Government Services Center, the UpCounty Government Services Center, the Office of Management and Budget, and the County Attorney's Office are attached.

With regard to the recommendation to abolish the Suburban District, the Executive Branch will be analyzing the fiscal and service impact of taking such an action and will inform you of our position once we have concluded the analysis.

We are in basic agreement with the recommendations concerning the Urban Districts, but would like to highlight three issues:

- 1) As you mentioned in the Draft Report, the Executive is recommending that by FY 94 a new structure be established in each of the three CBDs. The Executive Branch is working with the community to develop recommendations concerning the County Government's organization and management presence in the three CBDs. The recommendations in OLO Report #91-8 will be considered in the context of the work that is already underway. The recommendations of this Executive Branch working group will be available in late May or June.
- 2) As stated in the Draft Report, a transfer of administrative support responsibilities from DOT to the Government Services Centers will require additional resources. The Directors of the Government Services Centers have all confirmed this need in their responses. To ensure that this need is not overlooked, I would like to reiterate this point.

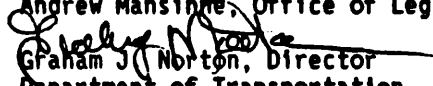
- 3) As part of their work to establish a new structure in each of three CBDs, the Executive Branch working group is reviewing and looking for possible consolidation of various citizen advisory groups. However, it may not be appropriate to consolidate certain groups because their scopes of responsibilities allow them to function more effectively as separate groups. The Government Services Center Citizens Advisory Boards are regional and not confined to the Urban Districts. The Action Groups are confined to traffic and transportation issues, not limited to the CBDs, and provide direct communication between the citizens and senior management in the Department of Transportation.

The Executive Branch looks forward to discussing OLO Report #91-8 upon its release by the County Council. Thank you again for the opportunity to comment.

WHH/rm

MEMORANDUM

April 16, 1992

TO: Andrew Mansinne, Office of Legislative Oversight
FROM:  Graham J. Norton, Director
Department of Transportation
SUBJECT: Draft Office of Legislative Oversight Report 91-8: A Description and Evaluation of the Montgomery County Suburban District and Urban District

We have reviewed the draft report "A Description and Evaluation of the Montgomery County Suburban District and Urban District" and make the following comments. We have also enclosed recommended technical corrections as well.

1. OLO Recommendation: Under the provisions of County Code Section 68-7, the County Council should adopt a resolution abolishing the Suburban District.

DOT Comment: The Suburban District has served a number of purposes, some of which remain. Prior to abolishment, provision must be made to accommodate those which remain. The services provided by the Suburban District are not appropriate yet for the entire County so provision must be made for delineation of the expanded areas within which the service would be provided.

2. OLO Recommendation: The two major services currently provided by the District - leaf collection and recycling and street tree maintenance - should be continued inside the former district and expanded to the other developed and developing areas of the County.

DOT Comment: We agree that the leaf collection issue should be comprehensively reviewed. In areas with large numbers of mature trees bagging, using expensive recyclable paper bags, would be expensive for citizens. Vacuum pickup is the preferred method. As noted above, criteria would be required to establish eligibility for the County service.

3. OLO Recommendation: The County Council should establish a policy on how leaf collection and street tree maintenance services will be funded.

DOT Comment: None

4. **OLO Recommendation:** The County Executive should relieve the Urban Maintenance Section of the Department of Transportation from its responsibility for administrative support of the Urban Districts, and under the provisions of Code section 68A-1(1) designate the Director of the Government Services Center, in which each Urban District is located, responsibility for administrative support of that district.

DOT Comment: Our assumption is that this recommendation leaves the maintenance management function with DOT, and thus we concur. We infer from the report a notion that administrative resources are available for transfer to the GSC. This is NOT the case. The only administrative support provided is budget preparation, which is a peripheral duty of the Operations Division's Budget Analyst and minute taking at monthly meetings.

5. **OLO Recommendation:** The Department of Transportation should be relieved of all other responsibilities in the Urban Districts that do not directly relate to the department's statutory mission, such as management of promotion contracts.

DOT Comment: Concur. Resources will be required in the GSC to manage the promotions contracts, as in the past they have been managed by personnel borrowed (part time) from DHCD or by a contracted manager.

6. **OLO Recommendation:** All statutory and ad hoc government supported organizations and groups in the Urban Districts should be reviewed and consolidated where duplication and overlapping of functions and responsibilities are found.

DOT Comment: Concur. As noted in the report the Executive has a committee reviewing this matter with recommendations due in May or June. We do note that the Action Groups were listed as fitting the criteria. The Action Groups are a DOT customer service outreach effort not limited to CBDs. It is a communication mechanism to allow any citizen or group to communicate traffic and transportation issues directly to the Director and Divisions of the Department of Transportation. Aside from the Citizen Outreach Coordinator in the Director's Office, who has this as one of many duties, there are no administrative resources supporting this effort which would be available for transfer.

7. **OLO Recommendation:** The County should discontinue charging optional method developers a fee for maintaining streetscape amenities which the developer installed in the public right-of-way; and the costs associated with all streetscape maintenance should be charged to the appropriate Urban District Special Revenue Fund.

DOT Comment: None

8. **OLO Recommendation:** The Urban Design Division (M-NCPPC) and the Urban Maintenance Section (DOT) should develop coordination procedures for all matters relating to optional method development in the Urban Districts.

DOT Comment: Concur

9. **OLO Recommendation:** The appropriate elements of the Departments of Finance and Transportation and the Office of the County Attorney should develop coordination procedures for billing, collecting, and enforcing payments due the County from optional method developers for streetscape maintenance services.

DOT Comment: None

10. **OLO Comment in Report:** Eliminate street sweeping.

DOT Comment: Elimination of at least annual street sweeping in urbanized, suburbanized areas of the County on closed section streets could have negative impacts on water quality, storm drainage, and aesthetics.

11. **OLO Comment in Report:** The County should develop a tree maintenance and replacement program that applies to street trees within the Suburban District and outside the District boundaries. Funding for the tree maintenance program should be with General Revenues or, as recommended, in the Tree Report by a dedicated tax.

DOT Comment: We agree that tree maintenance and replacement is severely underfunded. However, in terms of the total maintenance backlog, it does not compete well for funding. A special tree tax would provide dedicated funding, but the question remains whether this item should be fully funded prior to such items as storm drain maintenance, which is also significantly underfunded.

12. **OLO Comment:** A repeated criticism from members of the Bethesda Urban District Advisory Committee was the frustration over the failure of the County agencies to implement projects the committee had recommended.

DOT Comment: Care should be taken not to generalize from these comments as they involved a few items held up in the procurement freeze caused by the fiscal situation. Additionally, there were questions as to whether several of the items didn't properly belong in the Police budget. This was acknowledged by the committee during a meeting with the Director, DOT.

GJN:md:5296Z

RECOMMENDED TECHNICAL CORRECTIONS

TO OLO REPORT NO. 91-8

- (1) **Pages 7 & 8.** Concerning country clubs and their receipt of Suburban District services, Urban Maintenance services are provided to any land owner in the Suburban District which has property adjacent to a County maintained right-of-way. The Chevy Chase Country Club is surrounded on three sides by the Chevy Chase special tax districts and on the east side by a State road. Thus, they have no boundaries adjacent to a County maintained roadway and, therefore, do not receive Suburban District services. Shopping centers in the Suburban District (excluding the Urban Districts) which are adjacent to County maintained roads are eligible to receive and do receive any services we provide to the limits of our approved funding.

Wheaton Plaza does not receive Suburban District services because it is in the Wheaton Urban District. It received Urban District services in accordance with its need and exposure to County maintained roads.

- (2) Page 7. The tax tables are in error and should reflect as follows:

1986	-	\$.09/\$100 assessed value
1989	-	\$.085/\$100 assessed value
1990	-	\$.085/\$100 assessed value
1991	-	\$.08/\$100 assessed value
1992	-	\$.06/\$100 assessed value

- (3) Page 9. Leaf collection is no longer exclusive to the Suburban District. DEP conducts a mildly successful bagged collection in a number of their recycling areas.
- (4) Page 12. The \$338,761 is either in error or only reflects a single sweeping in FY91. Possibly, the arterial or CBD sweepings were left out of the total as we usually spend over \$500,000 per year on all sweeping.

Mowing service also includes herbicidal applications on public rights-of-way as well as trash cleanup on dead ends and the areas we mow.

- (5) Page 13. The Wheaton Urban District was created a year later than the Bethesda and Silver Spring.
- (6) Page 15. The Section maintains areas that appear to be public. We actually maintain small private areas in front of businesses where there is irregular right-of-way lines.
- (7) Page 17. Lower streetscape maintenance costs are a result of competitive bidding and use of new rates from our streetscape contractor to both public rights-of-way and OMD properties.
- (8) Page 24. Paragraph #2 does not mention sweeping or mowing as visible services. These are very visible services.
- (9) Page 25. Paragraph #4 should read \$309,000 and not \$30,000. Additionally, the sweeping we conduct is important in that it reduces clogging of storm drains and channels with particles. Sweeping also reduces pollution of our waterways and the Bay by removal of particulates and heavy metals.
- (10) Page 26. The Urban Maintenance Section will not collect leaves in the spring in paper bags set out by Suburban District residents. This is a DEP recycling contractor obligation. The Urban Maintenance Section gave up this responsibility (with one work year and associated funds) in FY92.
- (11) Page 27. The fourth paragraph should read "Tree Maintenance Division within DOT or by contract" and not contrast.
- (12) Page 29. The third paragraph should read "Suburban District" and not Urban District.
- (13) Page 29. DOT takes exception with the idea that only two services set the Suburban District apart from the rest of the general County. The mowing we conduct is far more frequent (8-12 times/year) than that performed by the Highway Maintenance Section outside the Suburban District (twice per year).

Additionally, mowing includes chemical weed control on major arterial roads which goes unobserved unless it is discontinued. This is an uninvestigated aspect of our mowing effort.

- (14) Page 32. As DOT provides the greatest portion of services to the Urban District, it should remain the lead agency responsible for Administrative Support. Replacing DOT with the Government Centers would involve (1) a new layer to the operational hierarchy which may further reduce government responsiveness and (2) add three managers (each Government Center) directing DOT operations where DOT currently manages its own operations.
- (15) Page 33. DOT does not manage the promotional activities of the Urban District. This is contracted out and administrative support comes from DHCD/Commercial Revitalization. DOT merely budgets the dollars (See page 34).
- (16) Page 34. The Government Service Center Directors already exert considerable influence in the area of promotions.
- (17) Page 36. Agree with discontinuing OMD fees. Somewhat confused about usage of term off-site. OMD's are charged maintenance fees for all amenities on adjacent rights-of-way and other locations on rights-of-way.
- (18) Page 37. The method used to apportion liability and overhead are consistent. The base figures upon which the percent is apportioned changes from year to year.
- (19) Page 41. DOT did not decide the GSA should not be billed. The Finance Department investigator felt the bill was uncollectable. Urban Maintenance told Finance if, in fact, they determined the bill was uncollectable, to stop sending bills.
- (20) Page 42. In the "Other Development/Revitalization" section, there is a misconception. The Suburban District does expend funds to maintain shopping centers and revitalization efforts within the Suburban District. Example: Flower Avenue and Piney Branch Road.

PMT/bch:0206A/10

MEMORANDUM

April 17, 1992

TO: Andrew Mansinne, Jr., Director
Office of Legislative Oversight

VIA: Johanna Ettl, Management and Budget Specialist III
Total Quality Management Unit

FROM: Edward U. Graham, Director
Department of Environmental Protection

SUBJECT: Comments on Draft OLO Report #91-8, A Description and Evaluation of the Montgomery County Suburban District and Urban Districts.

The Department of Environmental Protection has reviewed this report and generally concurs with its recommendations. Our primary concern is that the County continue to vacuum leaves in the Fall from at least the existing Suburban District, and ideally from an expanded area of suburban and urban developed areas. The over 100,000 cubic yards of leaves we capture each Fall is critical to being able to compost other yard waste. It provides the carbon source with which to mix grass. Without this quantity of leaves, we would be unable to operate a successful yard waste composting facility.

Few leaves are collected in areas outside the Suburban District that currently have only a bagged collection system. In the Suburban District, we estimate that we capture nearly 90% of the leaves; outside the Suburban District less than 10%. It is important to note that the leaf vacuuming services and the curbside yard waste collection being provided in the Suburban District are not duplicative but rather complementary. The curbside yard waste collection program is designed to collect primarily grass and brush. The leaf vacuuming service collects leaves. Few residents choose to pay the cost of the brown paper bags to dispose of their Fall leaves through the curbside recycling pick-up. Yet without the leaves, we cannot compost the grass. Vacuuming them is essential to our program.

In addition to the advantages for our solid waste programs, vacuuming and the continuation of mechanical street sweeping improve the quality and flow of stormwater runoff - - another important concern for our agency. For this reason, we recommend that the current street cleaning practice also be continued in the lower county.

The recommendation that the curbside leaf vacuuming service be expanded with the creation of a special tax district for the service is supported by DEP. We would advocate that the special taxing district remain under DOT authority and that DOT administer an expanded service area for the Fall vacuuming. There is no need to provide a Spring service, as this report revealed that we capture very little material; bagged collection should suffice for the Spring.

Thank you for allowing us to review this well prepared report. We look forward to working with you in refining Montgomery County's programs to assure we are providing quality services in a cost-effective manner. If you have any further questions regarding our solid waste programs, do not hesitate to contact Jeff Duncel at ext. 2360. I also have attached some minor editorial comments to this memorandum for your consideration.

JRD:jrd

MEMORANDUM

TO: Andrew Mansinne, Jr., Director
Office of Legislative Oversight

FROM: *Paul Nachman*
Paul Nachman, Director
Bethesda-Chevy Chase Government Center

DATE: April 15, 1992

SUBJECT: Comments - OLO Report 91-8
Montgomery County Suburban & Urban Districts

Thank you for the opportunity to review and comment on the above-referenced draft report. I would like to offer the following comments:

- o I support the concept of transferring the responsibility for administrative support for the Urban Districts to the Government Service Centers. I understand this recommendation to relate only to the provision of administrative support to the Urban District Advisory Committee and to the monitoring of the Urban District promotions contract. These additional responsibilities would require additional resources for the various Government Service Centers.
- o In a related vein, there is an on-going Executive Branch initiative looking at the County government's organization and management presence in the three CBD's (Wheaton, Silver Spring, and Bethesda). The goal of such a reorganization would be to reduce the multiplicity of committees and to consolidate County government supported activities in the CBD's. The recommendations of this Executive Branch working group will be available in late May or June.
- o While I agree there are many overlapping committees, I would not support the elimination of the Bethesda Action Group (B.A.G.). This group has a very specific focus (traffic and related problems in the CBD). It does not concern itself with policy recommendations or broad-based issues that would "dilute" this focus. It is essential that DOT senior staff be present to address the action items that are brought to the table by interested citizens and business representatives.
- o I support the recommendation that the Urban Design Division (MNCPPC) and the Urban Maintenance Division (DOT) should develop coordination procedures for matters relating to optional method development. The on-going maintenance of public amenities on private property and the identification of these amenities as a public amenity has been an on-going problem (at least in Bethesda).
- o The discussion of the Government Service Centers' role in coordinating the Neighborhood Initiatives CIP should have a footnote. While this project remains in the CIP, funding for FY92 and FY93 has been deferred due to the County's current fiscal situation.

If you have any questions, please feel free to contact me at 986-4190. Thank you for the opportunity to review the draft report.

M E M O R A N D U M

April 16, 1992

TO: Andrew Mansinne, Jr., Director, Office of Legislative Oversight
FROM: Andrea Eaton, *AE* Director, Silver Spring Government Center
SUBJECT: Response to OLO Draft Report 91-8, A Description and Evaluation of the Montgomery County Suburban District and Urban Districts

Summary

The conclusions and recommendations contained in OLO Draft Report 91-8 are certainly headed in the right direction. However, implementation of changes involving the Urban Districts would require a complex and broad set of actions which would have significant impact on County Government operations in a number of areas, including DOT, DHCD, DEP, and three of the four regional Government Centers.

Assuring a smooth and successful reorganization of the Urban District functions will necessitate two important measures. First, a consensus concerning what steps to take and a timetable to carry them out should be reached among all of the agencies which would be affected by the proposed changes. In addition, the OLO recommended reassignment of Urban District administration would need to be accomplished concurrently with the Executive's "concept of reorganizing the central business districts in downtown areas" (Recommended FY93 Budget, Volume 1, page 63). Even though the Executive's proposal involves a number of other functions in the CBDs in addition to those of the the Urban Districts, the Urban District plays such a key role in the CBDs that its functions or configuration will likely be affected in some significant fashion by the proposal.

I am only responding to the recommendations and conclusions in the Draft which would directly affect the operation of the Silver Spring Government Center. I feel that the agencies which would be affected by other changes proposed in the Draft are in a much more informed position to comment on them.

Urban Districts

There are four areas of comment regarding the Urban Districts section of the Draft.

1. Consolidation/abolishment of committees/organizations within the Urban Districts.

Recommendation #3 on page 44 of the Draft indicates that all types of government supported groups which advise on Urban District matters should be reviewed and consolidated. The Government Center Advisory Boards should not be subject to review or consolidation because their realm of advisory function is regional, and not merely confined to the Urban Districts. It would be helpful if this point could also be clarified in the body of the Draft (page 34, point #4).

2. Resources needed for Government Center provision of administrative support to the Urban Districts.

Placing Urban District administrative functions in the Government Centers would involve managing the promotions contract, and coordinating the Urban District Advisory Committee with its subcommittees and other governmental policy-making and service delivery elements. It would also generate a large number of additional incoming inquiries and complaints regarding a wide variety of issues within the CBDs. Many of these would require Government Center staff follow-up and possibly intervention.

Therefore, the substantial increase in workload at the Government Centers as a result of this new responsibility would require more resources, as recommended on page 33 of the Draft. Additional resources for the affected Government Centers would need to include both management and clerical support. Additional operating resources, including an increase in accounts such as postage and supplies, computer hardware, and furnishings, would also be necessary. In some Centers, space for additional personnel may also have to be found.

3. Continuing Urban District maintenance and budgeting functions in DOT.

The Government Centers have neither the information nor the expertise necessary to get involved in Urban District maintenance and budgeting, both of which have historically been ongoing functions of DOT staff.

4. Combining the OLO Report recommendations concerning Urban Districts with the Executive's recommendations concerning the reorganization of government supported activities within the CBDs.

It is important to connect the OLO recommendations regarding Urban Districts with the Executive's expected proposal to reorganize County Government functions in the CBDs. The Executive's plan, which is expected to be completed and forwarded to the Council in late May or in June, will "refocus and consolidate all County Government supported activity" within the CBDs. This statement by itself indicates that the plan will likely have a substantial impact on the configuration, role, and functions of both the Urban District Advisory Board and Urban District administrative support functions. Consolidating the OLO report and Executive proposal recommendations would likely increase the efficiency of implementing both operations.

AE/RW:btn
92CBD/am0416

MEMORANDUM

April 15, 1992

TO: Andrew Mansinne, Director
Office of Legislative Oversight

VIA: Joanna Ettl
Office of the County Executive

FROM: *Freda Mauldin*
Freda Mauldin
Director, Wheaton Government Services Center

SUBJECT: OLO Report 91-8

Thank you for the very comprehensive report on the proposed reorganization of the CBD's. At this point, the affected committees in Wheaton (Urban District; Revitalization Strategy and Citizens Advisory Board) are pleased with both the concept of reorganization and with the administrative support for the CBD coming from Wheaton Center. The Citizens Advisory Board (who will remain intact as a Board) believes that their members who will serve on the Urban District Committee should come from the "southern half" of the Board's service area (which recently extended its boundaries to the Howard County line).

In order for the Center to provide staff support, however, it is important that a half-time position be added. Current staff strength is not adequate for proper administration of the Urban District. I hope that a funding source can be found for this position.

MEMORANDUM

April 16, 1992

TO: Andrew Mansinne, Director
Office of Legislative Oversight

FROM: *C. Stephen Poteat*
C. Stephen Poteat, Director
Upcounty Government Services Center

SUBJECT: Comments on Draft OLO Report 91-8, A Description and Evaluation of the Montgomery County Suburban District and Urban Districts, April 1, 1992

This Office has reviewed the subject report and endorses the recommendation in the report that some of the services currently provided in the Suburban District be "expanded to the other developed and developing areas of the County." This Office periodically receives requests for street tree maintenance in the "developed and developing" areas of the Upcounty. At the present time I inform citizens that such services are only available in the Suburban District where additional taxes are paid. Most are still interested in receiving the service despite some additional cost. Little interest has been expressed to this Office for leaf collection.

The expanded service area could be defined through the use of master plan boundaries and/or zoning boundaries and need not include the entire Upcounty. For example, the entire Agricultural Reserve would logically be excluded. Working with the Upcounty Citizens Advisory Board, I could assist in redefining the service area.

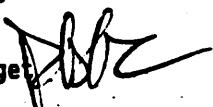


Montgomery County Government

MEMORANDUM

April 16, 1992

TO: Andrew Mansinne, Jr., Director
Office of Legislative Oversight

FROM: Robert K. Kendal, Director
Office of Management and Budget 

SUBJECT: OLO Report No. 91-8, A Description and Evaluation of the Montgomery County Suburban District and Urban Districts

Thank you for the opportunity to respond to this OLO report. As usual, your report provides a comprehensive and thoughtful presentation of the relevant issues.

I understand that OMB staff have provided you with technical comments and corrections by phone. The following comments address Section IX, RECOMMENDATIONS.

Regarding Recommendation A1 (abolish the Suburban District), I believe that the County should proceed cautiously on this matter. While I agree that the circumstances that existed when the District was created are different, the services now offered may in fact be needed in other areas of the County that have developed with suburban characteristics. Issues of which services are offered and at what level, how to organize these services, and who pays for these services should be taken into account when considering whether to abolish the Suburban District or even whether it should be drawn differently and perhaps expanded. OMB will be working with the appropriate departments to bring this issue to the County Executive's attention after release by the Council of the OLO report. We do not anticipate that this issue will be decided before the Council adopts the FY 93 budget on or before May 15.

On a similar issue, it may be premature to recommend discontinuing charging for optional method development. While your report concludes that the policy should be discontinued because the County benefits from public amenities, there are costs associated with offering these amenities that must be considered, not to mention the additional cost to the public that may result from the additional density allowed under Optional Method Development. The County should proceed cautiously before eliminating this revenue source at this time due to the fiscal situation, but the Executive Branch will give your proposal consideration. On a related note, Recommendations B5 and B6 (developing coordination procedures related to optional method development) would be unnecessary if Recommendation B4 (discontinue optional method development) is implemented.

Office of Management and Budget
Director's Office/Interagency Analysis & Review Division/Budgets Division

101 Monroe Street, 14th Floor, Rockville, Maryland 20850, 301/217-2789, 2820, 2800

MEMORANDUM

April 17, 1992

TO: Andrew Mansinne, Jr., Director
Office of Legislative Oversight

VIA: Joyce R. Stern *Joyce R. Stern*
County Attorney

FROM: Marc P. Hansen *Marc Hansen*
Senior Assistant County Attorney

RE: Draft OLO Report 91-8, a Description and Evaluation of the
Montgomery County Suburban District and Urban Districts

We have reviewed draft OLO Report 91-8, a Description and Evaluation of the Montgomery County Suburban District and Urban Districts. Our comments follow.

On page 36, the Report indicates that the Optional Method Development (OMD) maintenance fee appears to constitute a double charge to OMD developers. We disagree. OMD developers agreed to undertake the cost of maintaining certain public amenities in exchange for increased development density. When the government took over responsibility for maintaining these amenities under the urban district legislation, the OMD developers were required to pay for the costs of maintenance for these amenities. This does not constitute a double charge because the OMD developers were already required to undertake this expense.

The Report states on page 37 that the method of computing the OMD maintenance charge includes an administrative overhead component which is not authorized by law. We disagree. Section 68A-4(3)(a) states that the County Executive may charge "each optional method development for the cost of maintaining off-site amenities for that development, including the County's cost of liability insurance." We believe that allocating administrative costs associated with providing maintenance services to OMD developers clearly falls within the parameters of the urban district legislation.

The Report states on page 37 that:

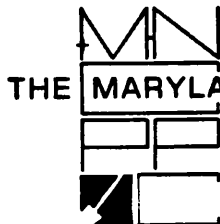
. . . there is a question as whether the Site Plan Enforcement Agreement or any of the other documents or plans required by the Planning Board legally binds the OMD developer to perpetual maintenance in that the agreements do not include any language in contract format that expressly spells out the perpetual maintenance responsibilities of the OMD developer.

We believe that the before this conclusion appears in a public document that OLO should ask the Park and Planning Commission and the County Attorney's Office for a legal analysis of this issue.

The Report states on page 40 that the only option for the Planning Board to enforce compliance with an OMD Site Plan Agreement is to seek revocation of the use and occupancy permit. It is unclear whether the possibility of seeking injunctive relief has also been considered by the Planning Board and OLO.

The Report on page 41 states, "OLO is not questioning whether GSA, a federal agency, is exempt from the payment of maintenance fees." We believe that the federal government may be liable for maintenance fees. Accordingly, we agree that this matter should be explored by the County Attorney's Office.

If you have any questions regarding these matters, please contact this office.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

(301) 495-4605

Montgomery County Planning Board
Office of the Chairman

April 17, 1992

Mr. Andrew Mansinne, Jr., Director
Office of Legislative Oversight
100 Maryland Avenue
Rockville, MD 20850

RE: Draft OLO Report 91-8

Dear Mr. Mansinne:

Yesterday, staff briefed the Planning Board on the OLO draft report, "A Description and Evaluation of the Montgomery County Suburban District and Urban Districts". The Board discussed the report in detail and offers the following comments to be incorporated into the final report that you will submit to the County Council.

The Board believes that the description and evaluation of the Suburban District is complete and accurate. We concur with the OLO recommendation regarding the Suburban District.

While the Board believes that the description of the Urban Districts is also complete and accurate, we do have some concern regarding several of the proposed conclusions and recommendations.

The Bethesda Work Group, which comprises representatives of the Urban District, Cultural District Committee, Chamber of Commerce, Community Advisory Committee and residential communities, has been meeting during the past five months to discuss approaches to the delivery of enhanced services in the CBD. They have concluded that a quasi-governmental, non-profit corporation is the preferred mechanism for managing urban district services.

In light of the Work Group's activity, though on-going, we feel that the OLO report should recognize the Work Group's efforts, list their conclusions and perhaps comment on the feasibility of their recommendations.

The Board agrees with your conclusion that the maintenance charges for the OMD projects could be discontinued; however, the OLO should consider recommending that the District Tax rate be adjusted.

We understand that in the opinion of OLO, the County receives a relatively fair exchange for the extra density permitted the OMD developer. Our staff will be conducting a detailed study on this question in FY 1993.

Our Urban Design staff was unaware of the need for better coordination with the Urban Maintenance Section of DOT until they reviewed the draft report. Our staff will contact the Urban Maintenance Section to discuss the establishment of the proper coordination procedures. The Urban Design staff recommendations on streetscape plantings are carefully developed with consideration of a number of factors. Some of these are form, height, seasonal interest, longevity, drought resistance, shade characteristics, growth and ease of maintenance. The report implies that the maintenance of plant material, which is the primary concern of the Urban Maintenance Section, is the only criteria for plant selection.

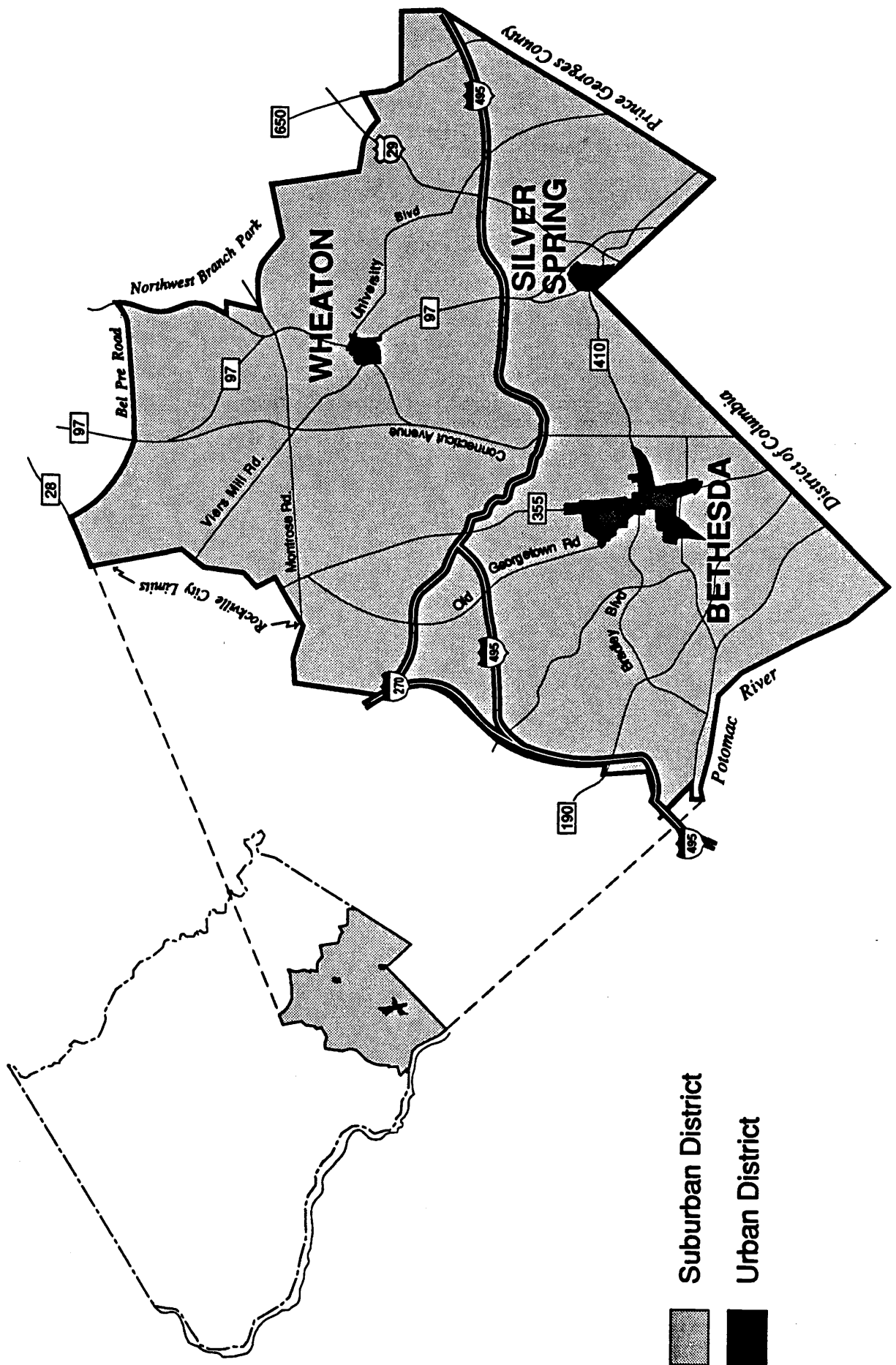
The Board appreciates the opportunity to provide you with our comments. We hope that you will find them useful and constructive.

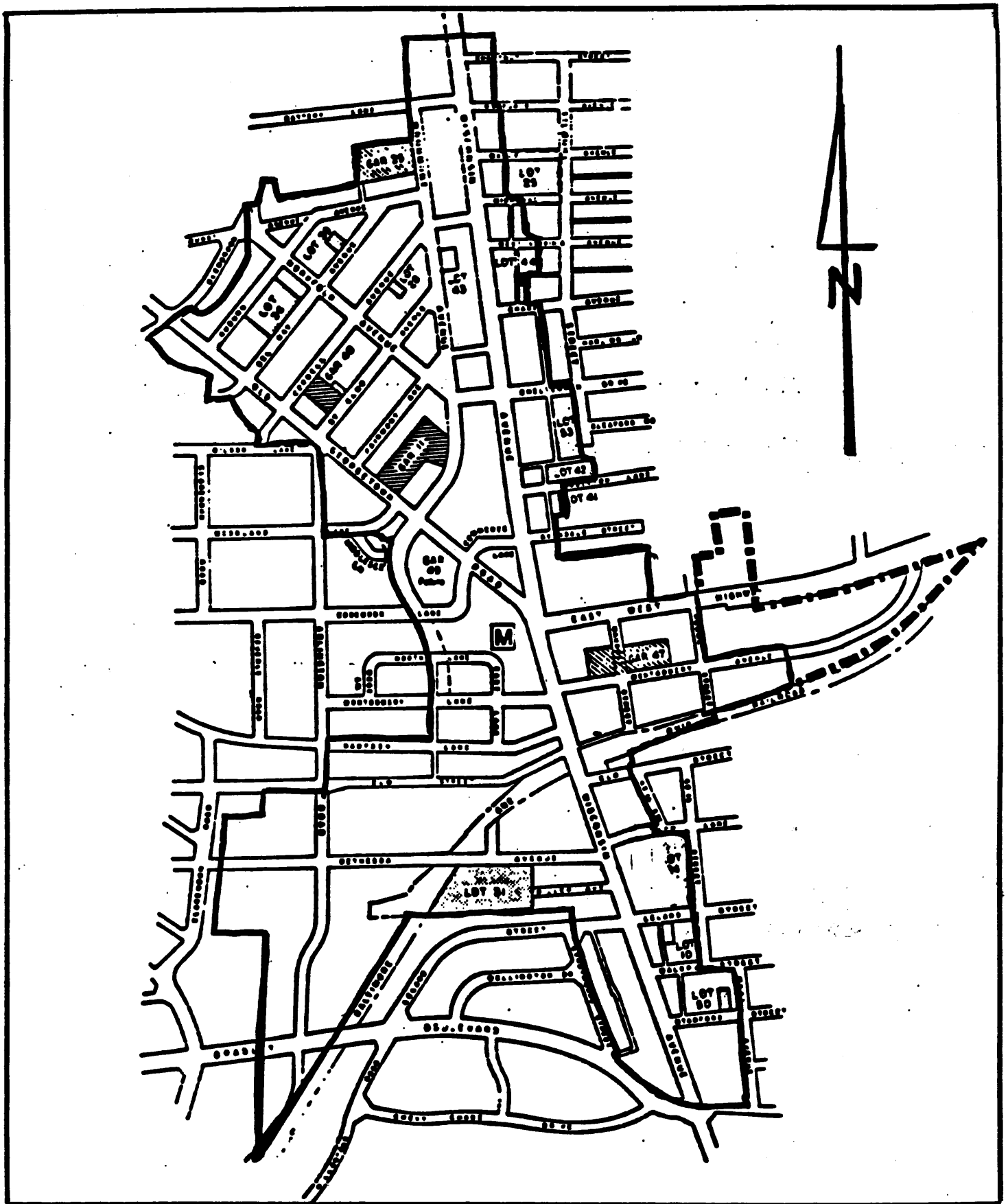
Sincerely,



Gus Bauman
Chairman

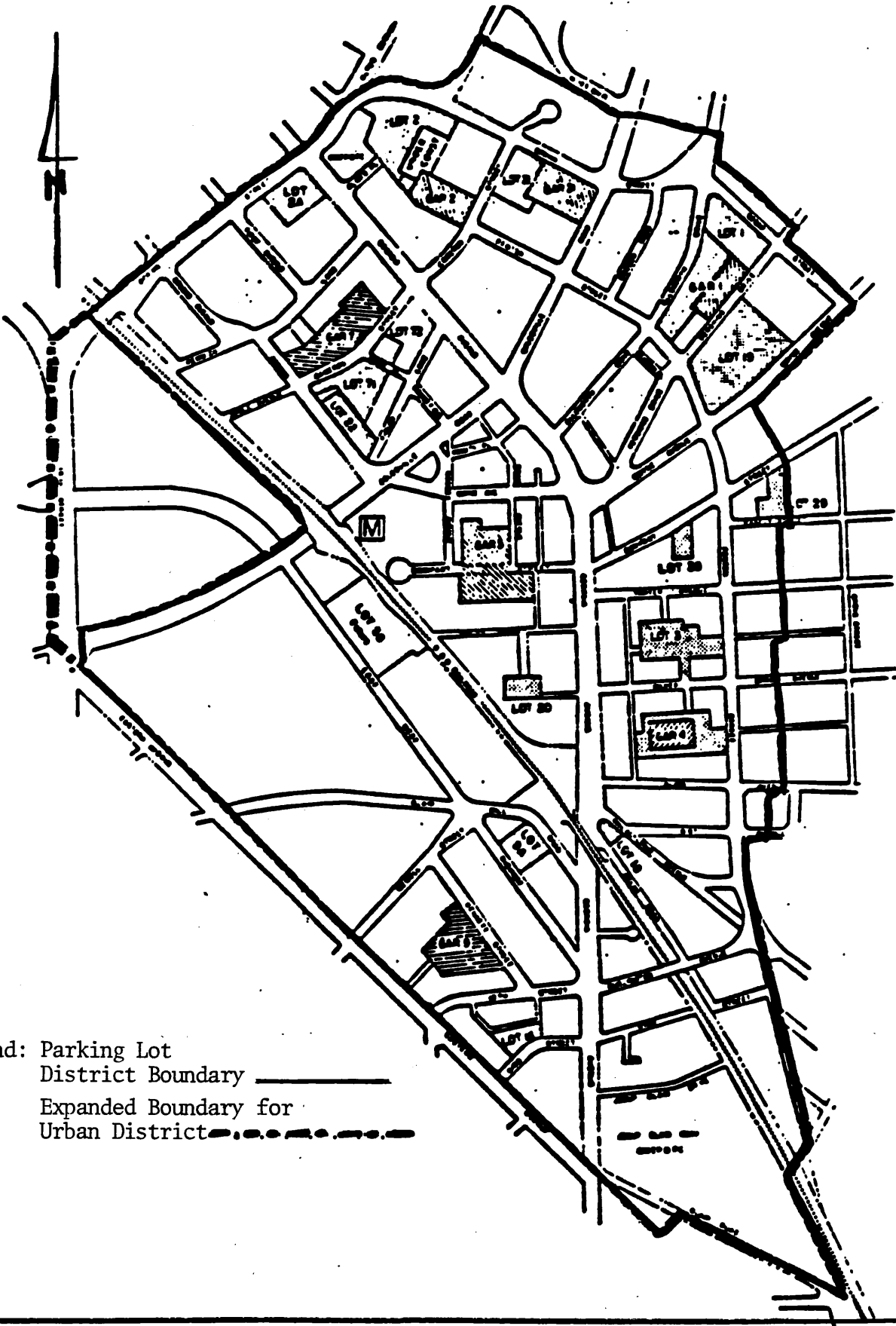
Montgomery County Suburban District and Urban Districts



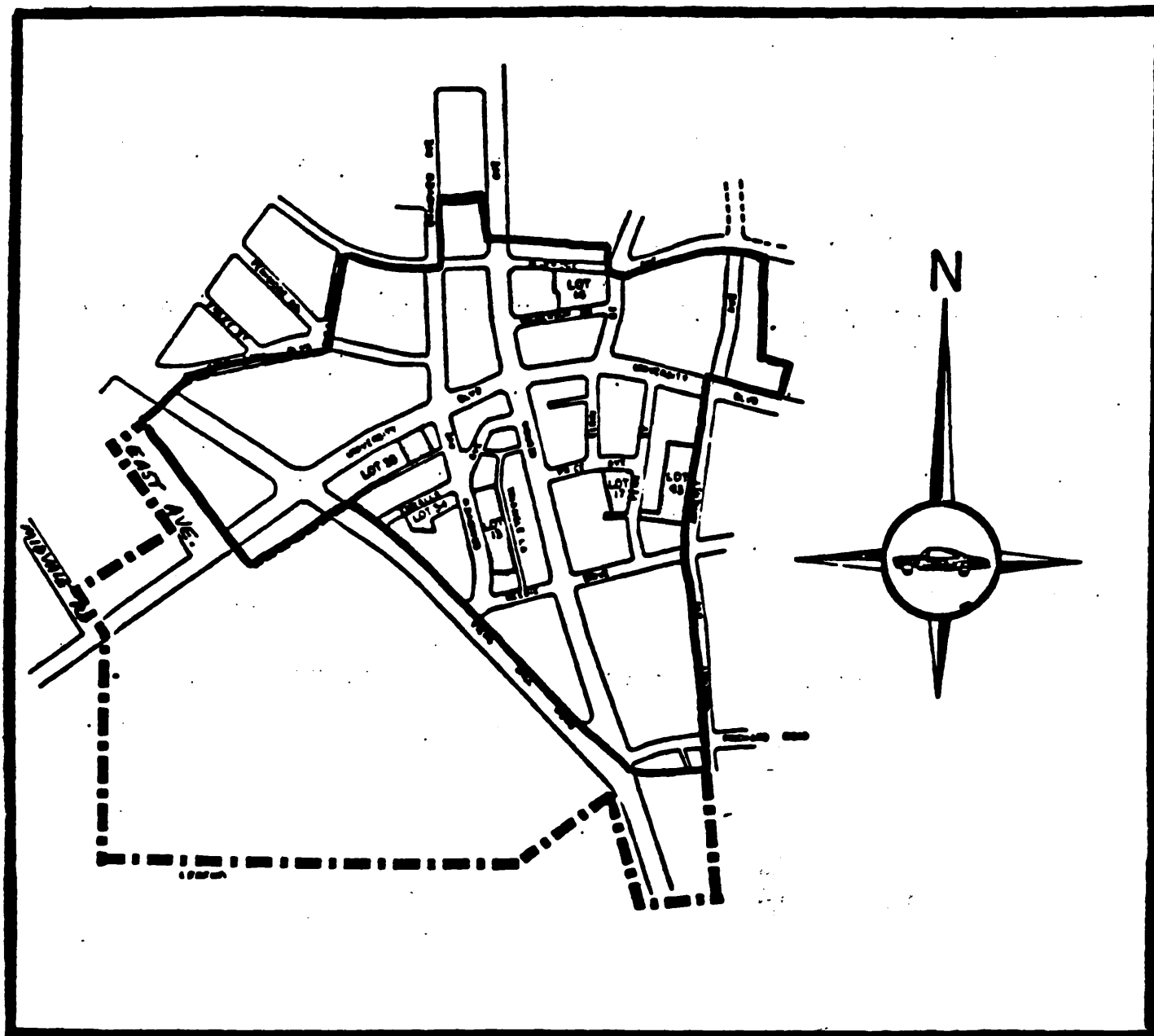


BETHESDA URBAN DISTRICT

Legend: Parking Lot District Boundary —————
 Expanded Boundary for Urban District - - - - -



Legend: Parking Lot
District Boundary ———
Expanded Boundary for
Urban District - - - - -



WHEATON URBAN DISTRICT

Legend: Parking Lot District Boundary: _____
Expanded Boundary for Urban District: - - - - -

Bethesda Optional Method Developer Billing
July 1, 1991 to September 30, 1991

Bethesda Air Rights Center	Litter Collection \$ 401.70 Special Landscaping 29.01 Tree Maintenance 147.87 Overhead 68.85 Insurance 232.47 TOTAL: \$ 879.90
Gateway Building	Litter Collection \$ 211.90 Trash Can Collection 344.40 Paver Washing 0 Tree Maintenance 401.37 Overhead 113.96 Insurance 113.57 TOTAL: \$1,185.20
Clark Building	Litter Collection \$ 251.55 Special Landscaping 153.70 Paver Washing 0 Tree Maintenance 338.00 Overhead 88.44 Insurance 143.29 TOTAL: \$ 974.98
Metro Center	Litter Collection \$ 257.40 Special Landscaping 261.00 Paver Washing 0 Tree Maintenance 380.25 Overhead 106.93 Insurance 141.45 TOTAL: \$1,147.03
Guest Quarters	Litter Collection \$ 451.10 Special Landscaping 182.70 Trash Can Collection 918.40 Paver Washing 0 Tree Maintenance 1,018.00 Overhead 305.85 Insurance 238.00 TOTAL: \$3,114.05
One Bethesda Center	Litter Collection \$ 406.25 Special Landscaping 204.45 Trash Can Collection 1,492.40 Grass Mowing 24.96 Paver Washing 0 Tree Maintenance 823.88 Overhead 351.28 Insurance 215.66 TOTAL: \$3,518.88

Artery Plaza

Litter Collection	\$ 295.10
Trash Can Collection	803.60
Paver Washing	0
Tree Maintenance	549.25
Overhead	196.10
Insurance	153.34
TOTAL:	<u>\$1,997.39</u>

Oxford Building

Litter Collection	\$ 250.25
Trash Can Collection	574.00
Paver Washing	0
Tree Maintenance	359.13
Overhead	140.82
Insurance	138.58
TOTAL:	<u>\$1,462.78</u>

Hampden Square

Litter Collection	\$ 364.65
Special Landscaping	71.05
Trash Can Collection	574.00
Grass Mowing	201.76
Paver Washing	0
Tree Maintenance	676.00
Overhead	224.60
Insurance	211.15
TOTAL:	<u>\$2,323.21</u>

Bethesda Crescent

Litter Collection	\$ 331.50
Trash Can Collection	459.20
Paver Washing	0
Tree Maintenance	443.63
Overhead	371.49
Insurance	176.91
TOTAL:	<u>\$1,782.73</u>

Chevy Chase Garden Plaza

Litter Collection	\$ 494.65
Special Landscaping	150.80
Grass Mowing	100.88
Paver Washing	0
Tree Maintenance	633.75
Overhead	164.22
Insurance	286.38
TOTAL:	<u>\$1,830.68</u>

Total Bethesda Optional Method
Development 5/1/91 to 9/30/91

\$20,216.83

The Tree Report
Tree Ordinance Drafting Group
April 1990

ISSUE #2: Maintenance of street trees outside the Suburban District

There is no public maintenance or required private maintenance of street trees located outside the County's Suburban District.

Background: The M-MCPPC typically requires the installation of street trees for all development approved under the site plan review process. The M-MCPPC estimates that 55-60% of the development activity occurring in the County undergoes site plan review. For development occurring under subdivision review, the M-MCPPC encourages the preservation of existing trees in common areas and in stream buffer areas. However, the planting of street trees is generally not required.

Street trees planted due to site plan review requirements: Since 1967, the M-MCPPC has approved over 1500 site plans, most of which had some requirements for street tree plantings. The preponderance of site plans (about 1100 or about 70%) were approved since 1980. Through 1989, the M-MCPPC estimates that it required plantings of about about 146,000 street trees through site plan review. The M-MCPPC estimates that over 100,000 of these trees were planted during the past decade, in rights-of-way within the County's principal growth areas and beyond the boundaries of the existing Suburban District. At the present time, the County's Department of Transportation (DOT) only provides maintenance to street trees inside the Suburban District (Figure 1).

Private street tree plantings: DOT believes there may be up to another 100,000-200,000 street trees outside of the Suburban District that were planted by independent citizen action, usually in undeveloped portions of rights-of ways abutting private property. Maintenance of these trees occurs as may be provided by abutting property owners or nearby residents.

Age of street trees: Most street trees required under M-MCPPC site plans are at least 5 years old and 2.5-5.0 inches in caliper when planted. Depending upon the time of site plan development, these street trees range in age from 5-28 years. Since the majority of site plan development occurred since 1980, most street trees planted under site plan review are estimated to range from 5-15 years in age. It is also assumed that the majority of citizen initiated street tree plantings outside of the Suburban District occurred during the 1980's growth period, likewise yielding street tree populations ranging from 5-15 years in maturity. Trees of this age are at a critical stage of development and are in need of fertilization and some pruning care to remove low hanging limbs and maintain tree health.

Maintenance Provided: The Planning Board makes developers responsible for street tree survival and condition only until the trees are inspected and accepted by the M-MCPPC. Depending on the size of the site plan, the developer's responsibility for the street trees survival may last from several months to 1-2 years before final acceptance from M-MCPPC.

The Planning Board imposes virtually no requirements on homeowner's associations (HOA's) for street tree maintenance once the developer's responsibility is removed. Unfortunately, most HOA's do not choose to budget sufficiently to maintain street trees, except perhaps for occasional mulching. In many cases, HOA's are not expert in how to maintain street trees. Any watering or fertilization that occurs is usually done as a result of individual citizen initiative.

Summary: Outside of the Suburban District there is a large and expanding population of street trees in need of maintenance. If adequate maintenance isn't provided, these important resources will deteriorate in attractiveness and vitality, with increased potential for premature loss. DOT is seeing increasing requests for street tree maintenance outside of the Suburban District, but retains no records on the volume of requests or complaints received.

Curbside Collection of Yard Waste

