



Committee: T&E
Committee Review: Completed
Staff: Livhu Ndou, Legislative Attorney
Glenn Orlin, Senior Analyst
Purpose: Final action – vote expected
Keywords: #CompleteStreets

AGENDA ITEMS:3C,4A&4B
October 25, 2022
Action

SUBJECT

Bill 24-22, Streets and Roads

Lead Sponsor: Council President Albornoz at the Request of the County Executive

Zoning Text Amendment (ZTA) 22-10, Streets and Roads

Subdivision Regulation Amendment (SRA) 22-01, Streets and Roads

Lead Sponsor: Council President Albornoz at the Request of the Planning Board

EXPECTED ATTENDEES

- Christopher Conklin, Director, Department of Transportation (DOT)
- Tim Cupples, Deputy Director for Transportation Policy, DOT
- Andrew Bossi, Senior Planning Specialist, DOT
- Jason Sartori, Chief, Countywide Planning & Policy, Planning Department
- Benjamin Berbert, Planner III, Countywide Planning & Policy, Planning Department
- Stephen Aldrich, Planner IV, Countywide Planning and Policy, Planning Department
- Atiq Panjshiri, Public Right-of-Way Manager, Department of Permitting Services (DPS)
- Linda Kobylski, Chief, Land Development, DPS

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

The Transportation and Environment (T&E) Committee recommends approval of Bill 24-22 with amendments; ZTA 22-10 with amendments; and SRA 22-01 with amendments.

DESCRIPTION/ISSUE

Bill 24-22, ZTA 22-10, and SRA 22-01 will make changes to several chapters of the County Code to implement the Complete Streets Design Guide.

SUMMARY OF KEY DISCUSSION POINTS

- The 2021 Complete Streets Design Guide provides policy and design guidance on the planning, design, and operation of county roadways, consistent with the County's Vision Zero goals. Here is a link to the Guide:
<https://montgomeryplanning.org/wp-content/uploads/2022/03/Montgomery-County-CSDG-Approved-2021.pdf>.
- Bill 24-22 revises Chapter 49, Streets and Roads, to apply complete streets standards to the design and construction of roads and road improvements.

- ZTA 22-10 revises Chapter 59, the Zoning Ordinance, by replacing the existing road types referenced throughout with the new Complete Streets Design Guide road types.
- SRA 22-01 revises Chapter 50, Subdivision of Land, by updating the standards for intersection spacing, providing new guidance on protected intersections, and replacing all occurrences of existing street types with the new street typologies from the Complete Streets Design Guide.

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MEMORANDUM

October 21, 2022

TO: County Council

FROM: Livhu Ndou, Legislative Attorney
Glenn Orlin, Senior Analyst

SUBJECT: Bill 24-22, Streets and Roads
Zoning Text Amendment (ZTA) 22-10, Streets and Roads
Subdivision Regulation Amendment (SRA) 22-01, Streets and Roads

PURPOSE: Worksession and Action

Committee recommendations (3-0):

- approval of Bill 24-22 with amendments
- approval of ZTA 22-10 with amendments
- approval of SRA 22-01 with amendments

EXPECTED ATTENDEES

- Christopher Conklin, Director, Department of Transportation (DOT)
- Tim Cupples, Deputy Director for Transportation Policy, DOT
- Andrew Bossi, Senior Planning Specialist, DOT
- Jason Sartori, Chief, Countywide Planning & Policy, Planning Department
- Benjamin Berbert, Planner III, Countywide Planning & Policy, Planning Department
- Stephen Aldrich, Planner IV, Countywide Planning and Policy, Planning Department
- Atiq Panjshiri, Public Right-of-Way Manager, Department of Permitting Services (DPS)
- Linda Kobylski, Chief, Land Development, DPS

INTRODUCTION

Bill 24-22, Zoning Text Amendment (ZTA) 22-10, and Subdivision Regulation Amendment (SRA) 22-01, all titled “Streets and Roads”, were introduced on July 26, 2022. Taken together, these items will make changes to several chapters of the County Code to implement the Complete Streets Design Guide.

Bill 24-22, lead sponsor Council President Alborno at the Request of the County Executive, revises Chapter 49, Streets and Roads, to apply complete streets standards to the design and construction of roads and road improvements.

ZTA 22-10, lead sponsor Council President Alborno at the Request of the Planning Board, revises Chapter 59, the Zoning Ordinance, by replacing the existing road types referenced throughout with the new Complete Streets Design Guide road types.

SRA 22-01, lead sponsor Council President Alborno at the Request of the Planning Board, revises Chapter 50, Subdivision of Land, by updating the standards for intersection spacing, providing new guidance on protected intersections, and replacing all occurrences of existing street types with the new street typologies from the Complete Streets Design Guide.

PUBLIC HEARING

A public hearing was held on all three items on September 20, 2022. The Rustic Roads Advisory Committee (RRAC) testified on Bill 24-22 and requested several amendments. An individual testified on all three items requesting more tree protection. Planning Board testified in support of ZTA 22-10 and SRA 22-01.

The Council also received written testimony from the RRAC three individuals. The written testimony requested the addition of two more members to the RRAC, more language from the Complete Streets chapter on green streets, and other amendments recommended by the RRAC that will be addressed later in this Council Staff memorandum. Subsequent correspondence from the Planning staff, the Greater Colesville Citizens Association, the Agricultural Preservation Advisory Board, and the Agricultural Advisory Committee are also attached.

SUMMARY OF IMPACT STATEMENTS

Bill 24-22

Economic Impact Statement

The Office of Legislative Oversight (OLO) found that enacting Bill 24-22 would have a positive impact on economic conditions in the County. Specifically, incorporating Complete Streets into the design, construction, and improvement of roads would increase residential property values in areas surrounding Complete Streets projects, as well as positively effect employment, business revenues and creation, and commercial property values.

Fiscal Impact Statement

The Office of Management and Budget (OMB) does not anticipate any impact on County revenues or expenditures due to passage of Bill 24-22.

RESJ Impact Statement

OLO found the racial equity and social justice (RESJ) impact of Bill 24-22 is indeterminant due to insufficient information on whether Black, Indigenous, and other people of color (BIPOC) residents will be the primary beneficiaries of roadway projects developed with complete streets standards.

ZTA 22-10

Planning Board Recommendation

The Planning Board reviewed Bill 24-22, ZTA 22-10, and SRA 22-01 on September 15, 2022. The Board unanimously recommended approval of all three items, with suggested amendments that will be discussed further below.

RESJ Impact Statement

OLO found that ZTA 22-10 would have little to no impact on racial equity and social justice in the County because the ZTA only makes technical revisions to the Zoning Ordinance.

DISCUSSION

Overview

The 2021 Complete Streets Design Guide provides policy and design guidance on the planning, design, and operation of county roadways, consistent with the County's Vision Zero goals.¹ The Guide was developed by the Montgomery County Department of Transportation (DOT) and Planning Department. Most of the revisions can be found in Bill 24-22, a substantial rewrite of Chapter 49, Roads. ZTA 22-10 and SRA 22-01 contain technical revisions to update existing references to roads and streets with new terminology that will be found in Chapter 49.

The T&E Committee held a worksession on ZTA 22-10 and SRA 22-01 on October 10, 2022; and recommended approval of the ZTA and SRA with amendments. The T&E Committee held worksessions on Bill 24-22 on October 10 and October 17, 2022; and recommended approval of the bill with amendments.

Bill 24-22

Background

Bill 24-22 is the latest in a 15-year-old effort to modernize the County's road construction standards. The first Road Code legislation (Bill 48-06) was adopted in July 2007 included a series of specific standards for target speed, lane and roadway width, bike lane width, sidewalk width, and curbside width. These standards varied by road classification and by geographic context—whether the roadway was in an urban, suburban, or rural area. However, Bill 48-06 also required

¹ The Guide can be found here:

https://montgomeryplanning.org/wp-content/uploads/2022/03/Montgomery-County-CSDG_Aproved-2021.pdf.

the Executive to adopt and submit to the Council a Method 2 regulation that, if accepted, would replace the standards in Bill 48-06. The development Executive Regulation 31-08AM was led by then Assistant Chief Administrative Officer Diane Schwartz Jones and the Executive Branch's lead consultant, one Christopher Conklin. The Executive regulation was developed with the participation of a 24-member Stakeholder Work Group consisting of 11 government representatives and 13 representatives from the private sector and members of the public.

The Council anticipated a second, even more detailed Executive regulation pertaining to street design elements in urban areas. When that was not forthcoming, in late 2013 Councilmembers Roger Berliner and Hans Riemer sponsored Bill 33-13, which attempted to provide much of that detail for urban areas, further limiting the width of travel lanes, turning lanes, and parking lanes, as well as the size of intersection curb radii. The bill set target speeds at which vehicles should operate in specific contexts, to provide both for mobility for motor vehicles and a safe environment for pedestrians and bicyclists. The bill required certain road improvements to include sufficient pedestrian refuge areas, directed developers building road improvements to add curb ramps where appropriate, and required curb ramps to be built in accordance with federal ADA Best Practices. It also called for the subsequent development of a comprehensive Complete Streets Design guide. Bill 33-13 as amended was adopted in November 2014.

In the spring of 2016, the funds needed to produce the Complete Streets Design Guide had not yet been budgeted. Councilmember Riemer asked the Council to add \$264,000 to the FY17 Operating Budget to begin the work (©173-174). The funds were not in the Executive's Recommended Budget, but DOT Director Al Roshdieh indicated that he would find a way to get started on it without having to supplement his budget. That began the process that led to the completion of the guide in early 2021, a joint effort between DOT and the Planning Department.

Bill 24-22 is a rewrite of Chapter 49 to apply the 2021 Complete Streets Design Guide to the design and construction of roads and road improvements. The application of Complete Streets has several steps. After passage of this bill, DOT intends to develop Executive Regulations under Method (3) to provide guidance on the planning, design, and operation of roadways for all intended users. Planning intends to subsequently adopt the Pedestrian Master Plan and do technical updates to the Master Plan of Highways and Transitways.

Some of the major changes in Bill 24-22 include:

- Changing the adoption of regulations from Method (2) to Method (3)²
- Deleting Section 49-19A, "Energy-efficient streetlights," since its goals have been achieved
- Updating traffic calming measurements
- Expanding waiver of the requirements under certain circumstances to bikeways
- Adding DPS as an agency to be solicited for input on abandonments

² Under Section 2A-15 of the County Code, Method (3) regulations are not subject to County Council approval or disapproval, while the County Council may approve or disapprove a Method (2) regulation within 60 days of receiving it.

- Updating the legal process for abandonments
- Not requiring a right-of-way permit fee for tree pruning
- Including definitions established by the Bicycle Master Plan and Complete Streets Design Guide
- Establishing processes for exempting bikeways or walkways where they are found to be infeasible to construct, will not connect to any destinations within the foreseeable future, or the facility qualifies for fee-in-lieu
- Defining street areas and street types, and establishing the need for both County and Federal classifications
- Providing translations to convert the existing road classifications in the Master Plan of Highways and Transitways to the new street types until a technical update to the Master Plan of Highways and Transitways can be added to the Planning Department's work program
- Adding minimum rights-of-way for the proposed street types, revising curb radius guidelines consistent with the Complete Street Design Guide, and adding maximum target speeds for all street types

Subsequent regulation: Method (2) or Method (3)?

While the bill contains many of the general elements of the Complete Streets Design Guide, most of the details in the Guide will not be enforceable until they are included in a subsequent Executive regulation. The bill states:

The County Executive must adopt under Method (3) a Complete Streets Design regulation that provides guidance on the planning, design, and operation of roadways for all intended users.

The T&E Committee recommends that this instead be a Method (2) regulation, fully reviewable by the Council. The last time the Road Construction Code was amended comprehensively was on December 9, 2008, when the Council adopted Resolution 16-809 approving Executive Regulation 31-08AM, Context Sensitive Road Design Standards. This action was taken after two lengthy worksessions by the T&E Committee. It was a Method (2) regulation.

Proposed amendments based on Planning Board and Related Comments

On September 15 the Planning Board reviewed its staff's comments on the bills and transmitted them to the Council (©106-113). The staff had identified ten issues and some more minor issues. The Board concurred with the Department of Transportation on some issues and with its staff on others. Subsequently DOT concurred with some of the Board/staff recommended revisions. In Issues 1, 6, 7, 9 and 10 there are some remaining disagreements among the Board, DOT, DPS and Council staff. They are addressed below:

Issue 1: Defining the area types

a. The street standards in the Complete Streets Guide vary not only by a street's classification, but also by its milieu. The bill identifies four area types: *downtown* (with the highest intensity of development), *town center* (with moderate to high development intensity), *suburban*, and *country*, and it defines the areas that fall within each type. The Board recommends adding

language that would allow an area to move from one type to another if subsequently designated as such by the Council in a future approved functional plan, master plan, or sector plan. DOT concurs with such a revision. **The T&E Committee concurs with the Planning Board.**

b. The bill identifies six specific areas as downtowns: Bethesda CBD, Friendship Heights CBD, Silver Spring CBD, Wheaton CBD, the White Flint Sector Plan area, and the White Flint 2 Sector Plan area. The Board recommends adding three more downtowns: the Life Science/FDA Village area of White Oak, the Life Science Center districts in the Great Seneca Science Corridor Master Plan, and the Rock Spring Park Master Plan area. DOT staff indicates that it does not concur with designating these three areas as downtowns.

Council staff recommends that these three areas be added to the list of town center areas instead. They are not of the same density nor proximity to a Metrorail station to be considered “downtowns.” They are more akin the Germantown or Kensington Town Centers. **The T&E Committee agrees with the Planning Board’s recommendation that these be categorized as downtowns.**

Council staff recommends that the White Flint 2 Sector Plan should be categorized as a town center area. Most of it is beyond the watershed of the North Bethesda Metro Station (including the planned northern entrance) and it does not have nearly the planned level of density that the core White Flint Sector Plan has. **Following from the Planning staff’s recommendation, the T&E Committee recommends that the portion of the White Flint 2 Sector Plan area west of the CSX Metropolitan Branch be categorized as a downtown, but that the area east of the CSX line be categorized as a town center.**

Council staff does recommend adding the Glenmont, Grosvenor, Twinbrook and Shady Grove Urban Road Code areas as downtowns. All will ultimately feature density of development not dissimilar from White Flint, and all are within an easy walk of a Metrorail station. **The T&E Committee recommends that these areas be categorized as town centers in the bill, noting that their categorization could be re-examined in the future.**

The bill identifies six areas as town centers: Burtonsville, Clarksburg, Damascus, Germantown, Kensington, and Olney. The bill also designates as town centers “all other designated Urban areas not are not downtown areas.” The bill’s definition of “urban area” are those areas depicted as such in Appendix E of the Master Plan of Highways and Transitways, or as revised in a subsequently adopted plan. The difficulty with this definition is that Appendix E (nor any appendix) was never adopted by the Council. A better approach would be to list as town centers in Bill 24-22 all the Urban areas identified in Appendix E that are not downtowns, which would include the following Road Code Urban Areas: Cabin Branch, Chevy Chase Lake, Langley Crossroads, Lyttonsville Purple Line Station, Montgomery Hills, Piney Branch, Westbard, and Woodside Purple Line Station. **Council staff recommends deleting the reference to Appendix E in the Urban area definition, and to explicitly add the Road Code Urban Areas noted above as town centers.**

c. The Board recommends adding a fifth area type—industrial—defined as “areas where employment and industrial uses are the predominate activities.” DOT concurs. **The T&E Committee concurs.**

Issue 6: Authority to modify interim street type designations

Bill 24-22 establishes interim street types for each road or street until which time the type is confirmed in an adopted functional, master, or sector plan. Classification of streets is always one of the purposes of such Council-adopted plans. The question is who should have authority to revise the classification for a particular street while it is in this “interim” status: DOT or the Planning Board? The bill would grant this authority to DOT (see 49-31(d)(20)). The bill reads as follows:

If the Department of Transportation determines that the criteria under (d)(1) through (d)(19) are not suitable for a particular road, the Department may determine that a more context-sensitive classification or transition length applies in lieu of the default classifications.

The Board recommends replacing this text with:

Until redesignated by functional plans, master plans, or sector plans, if the Planning Board in consultation with the Department of Transportation determines that the criteria under (d) are not suitable for a particular road, the Planning Board may determine that a more context sensitive classification applies in lieu of the default classifications.

The T&E Committee recommends the text in the bill, with the amendment that DOT consult with Planning Board staff before making its determination. When there is such consultation there is agreement many more times than not. By not involving the Planning Board—or the Council, for that matter—the decision can be made more expeditiously. It is likely that this “interim” period will last only a couple of years until the Master Plan of Highways and Transitways is updated again.

Issue 7: Minimum right-of-way

The bill defines the minimum right-of-way of each master-planned road, but DOT acknowledges that it omitted two critical words (underlined below):

Minimum rights-of-way include continuous features along a typical section, and do not account for parking, drainage and stormwater management, spot conditions such as auxiliary lanes or transit stations, or infrastructure at intersections such as signal equipment and protected intersections.

Instead, the Board recommends amending this as follows:

Minimum rights-of-way include continuous features along a typical section. [and account for] Functional plans, master plans, or sector plans should specify whether minimum rights-of-way include parking, drainage and stormwater management, and spot conditions such as [auxiliary lanes or transit stations,] turning lanes, acceleration lanes, deceleration lanes, or other purposes auxiliary to through travel, transit stations, pedestrian crossing refuges, footprints associated with grade separation, or infrastructure at intersections such as signal equipment and protected intersections.

The T&E Committee concurs with the bill as written, except to include the words “generally do not.” The type of detail that would be called for in the Board’s recommendation can only be determined after detailed design of a street or road.

Issue 9: Modify target speeds

Target speed is the highest speed at which vehicles should operate on a thoroughfare in a specific context. Recent master and sector plans have identified the target speed for streets and roads within their boundaries. Bill 24-22 would set the maximum target speed for each type. These would be “interim” target speeds unless already identified in prior plans or updated in future plans. The bill would reduce target speeds in several contexts, most particularly in downtown and town center areas where there is significant traffic and pedestrian activity, and on residential streets, where the County recently received authority from the State to reduce the default speed limit from 25 mph to 20 mph.

However, in a few cases the pendulum might be moving too far. An example is the street type “Area Connector,” which would be the new moniker for two-lane Minor Arterials in the suburban area (i.e., anywhere that is not a downtown, town center, or in the country). The definition of Minor Arterial has been:

a 2-lane Arterial meant nearly equally for through movement of vehicles and access to abutting property.

The definition of an Area Connector is proposed as:

A two-lane street in a suburban area that typically connects employment and entertainment centers, civic, commercial, and institutional land uses, and may also provide limited regional connectivity and serve primary circulation in residential zones. These roads were previously classified as minor arterials.

The speed limit on these roads generally varies between 25-40 mph, but are usually in the 30-35 mph range, depending on the context. On Dale Drive, a Minor Arterial near the downtown of Silver Spring and the town center of Montgomery Hills, the speed limit was recently reduced from 30 mph to 25 mph. Dennis Avenue and Plyers Mill Road have a 30-mph limit. Minor Arterials in lower density areas have higher speed limits: for example, Old Baltimore Road, Cashell Road, and Redland Road (north of Shady Grove) all are posted at 35 mph. Nevertheless, under the bill the maximum target speed for all Area Connectors would be 25 mph.

Council staff recommends setting the maximum target speed at 35 mph for Area Connectors. This would provide the flexibility to accommodate a higher yet still safe speed in the upper part of the county while in the denser areas the choice can be to set them lower. A maximum target speed set too low will not fit all suburban contexts.

The T&E Committee concurs with the bill that the maximum target speed for all Area Connectors would be 25 mph.

The new street type “Neighborhood Connector” would be the rebranded Primary Residential Street. These streets are the collector streets for residential neighborhoods; they can carry some through traffic, but its primary function is to bring residents to and from their home

street, which is usually a Secondary Residential Street (now to be called either a “Neighborhood Street” or a “Neighborhood Yield Street” if it only has one travel lane which must be shared by vehicles heading in both directions). The bill as introduced would set the maximum target speed for Neighborhood Connectors at 25 mph and for Neighborhood Streets and Neighborhood Yield Streets at 20 mph. However, the Planning Board is recommending reducing the target speed on Neighborhood Connectors to 20 mph as well, and DOT has changed its position and concurs with the Planning Board.

Council staff recommends a maximum target speed of 25 mph for Neighborhood Connectors, as called for in the bill as introduced. These streets carry vehicles—including emergency vehicles—over longer distances than a local street; a 20-mph maximum speed would be out of sync with Neighborhood Streets and Neighborhood Yield Streets. A wide range of traffic calming options can be implemented on Neighborhood Connectors, including “flat-top” (22’-wide) speed humps. (See discussion below.)

The T&E Committee concurs with the Planning Board and DOT that Neighborhood Connectors should have a maximum target speed of 20 mph.

The Rustic Roads Advisory Committee (RRAC) notes that while County Roads have a proposed target speed range of 20-35 mph, Rustic and Exceptional Rustic Roads have no set target speed. It suggests a range of 20-35 mph for these roads as well. However, recall that for each road type what is being set is the *maximum* target speed; therefore, it is not appropriate to show a range for Country Roads. *Council staff recommends setting the maximum target speed of 35 mph for Country Roads.* **The T&E Committee is comfortable with showing a range of 20-35 mph for Country Roads, as delineated in the bill as introduced.**

Rustic and Exceptional Rustic Roads, however, are generally narrower and more curvilinear than Country Roads, suggesting that a lower maximum target speed would be more appropriate. **The T&E Committee recommends the maximum target speed for Rustic and Exceptional Rustic Roads to be 30 mph.**

Issue 10: Sidewalk Exemptions

a. Sections 49-29 and 49-40 address waivers for DOT and development projects, respectively. However, 49-29(a) would seem to apply to either type. As amended by the bill, it would read:

(a) Bikeways and sidewalks must be constructed when any County road is constructed, reconstructed, or relocated, except:...

The bill includes a new subsection (5) that would allow DPS to waive the requirement for a bikeway or sidewalk CIP project if it were not to connect to any destination in the foreseeable future or if the facility qualifies for a payment in lieu of construction. The problem is that DPS should not have the authority to waive a sidewalk or bikeway in a County project: that is DOT’s decision. The Planning Board opposes adding this subsection.

The T&E Committee recommends replacing part (a) with:

(a) The County must construct bikeways and sidewalks when it is constructing, reconstructing, or relocating a County road, except:

With this clarification, the T&E Committee also recommends deleting subsection (5).

b. Current law allows DPS to waive the requirement for a developer to build a sidewalk or a bikeway for several reasons. The Planning Board would add one more: if the Board establishes criteria to accept payment in lieu of such an improvement. DPS concurs. **The T&E Committee concurs.**

c. The Planning Board recommends an amendment that would not allow DPS to waive the requirement for a sidewalk or bikeway if it were a condition of a development approval. DPS opposes this amendment, noting that there are very few sidewalks or bikeways that it waives annually. **The T&E Committee agrees that DPS should have the final word on whether to waive such a requirement, but prior to a final decision it must consult with Planning staff. Furthermore, if the requirement is waived, the developer must make a payment in lieu that would help fund sidewalks or bikeways elsewhere.**

After the T&E Committee worksession the Planning staff transmitted a memo supporting the Board's amendment (©160-168). DPS's response to the Planning staff memo is on ©169-172.

Proposed amendment on speed hump program

Speed humps have been a presence in Montgomery County for about a quarter century. Until now, speed humps have been installed primarily on residential streets where traffic speed generally exceeds the posted limit by a significant margin and traffic volume is high enough to warrant the expense. After a bumpy start³ the program has struck a favorable balance by providing for much improved traffic, bicycle and pedestrian safety within residential neighborhoods while not unduly frustrating the residents driving into and out of their neighborhoods.

There are two types of speed humps: parabolic (12'-wide) humps on Secondary Residential Streets (to be called Neighborhood Streets or Neighborhood Yield Streets in the proposed classification system) and flat-top humps on Primary Residential Streets (to be called Neighborhood Collectors) and Minor Arterials (Neighborhood Connectors). Parabolic humps are consistent with speeds of 20 mph, while flat-top humps can be traversed gently at 25 mph. Flat-top humps often include marked crosswalks in the flat section.

The bill would allow for a broader application of flat-top speed humps, in particular on Downtown and Town Center Boulevards, and Industrial Streets. They would be consistent with the 25 mph target speeds on Downtown and Town Center Boulevards and Industrial Streets.

The RRAC recommends that Rustic and Exceptional Rustic Roads be eligible for speed humps, citing reports of excessive speeding. The Committee makes the point that neither 12'-

³ Literally. When the County first allowed for the installation of speed humps in the late 1990s, their rapid proliferation led to a backlash from many in the community. The Council worked with DOT to develop a revised process that required meeting specific speed, volume and spacing criteria, and an official neighborhood buy-in from neighboring homeowners. As a result, some humps were removed, and some other parabolic (12'-wide) humps were replaced with flat-top (22'-wide) humps.

wide nor 22'-wide humps are not appropriate for these roads, but it likely the Committee misunderstood that the dimensions apply to the front-to-back length of a hump, not the side-to-side length (©150-151).

Council staff does not recommend that Rustic and Exceptional Rustic Roads be eligible for speed humps. The Rustic Road Program is an historic preservation program for roads, and there is nothing that suggests that a speed hump reflects the agricultural character and rural origins of the county. The volume of traffic on these roads are nearly always not high enough to warrant the expense of a set of humps. If they were allowed on Rustic and Exceptional Rustic Roads, then the argument could be made that they would be appropriate on Country Roads as well, since they experience higher traffic speed and volume.

The T&E Committee concurs with the RRAC that Rustic and Exceptional Rustic Roads be eligible for speed humps. The Committee did not discuss which type and spacing of humps would apply to these roads, however. The bill identifies three categories:

- (1) speed humps that are 12 feet wide may be built on any neighborhood street, neighborhood yield street, or alley, but must be spaced at least 500 feet from any other hump and 200 feet from any intersection
- (2) speed humps that are 22 feet wide may be built on any downtown street, town center street, or shared street, but must be spaced at least 500 feet from any other hump and 200 feet from any intersection
- (3) speed humps that are 22 feet wide may be built on a downtown boulevard, town center boulevard, area connector, neighborhood connector, or industrial street, but must be spaced at least 750 feet from any other hump and 300 feet from any intersection

Council staff recommends that if the Council agrees that these roads be eligible for speed humps, that they should be included in Category (3), above. DOT staff concur.

Council staff recommends that if these roads be eligible for speed humps, then County Roads should also be eligible and be included in Category (3). They have the same function as Rustic and Exceptional Rustic Roads; traffic on them usually has a somewhat higher speed and volume; all they lack are the unique settings and historic significance of Rustic and Exceptional Rustic Roads. **Councilmembers Hucker and Glass do not agree to this recommendation, since it was not an issue raised in the bill or testimony; they believe it could be considered at a later time. Councilmember Riemer concurs with Council staff that the bill should specify that Country Roads, too, be eligible for speed humps.**

After the T&E worksessions, the Council received a letter from the Chair of the Agricultural Advisory Committee noting the difficulty with heavy agricultural equipment passing over speed humps, and the effect on other traffic on the roadway (©159).

Proposed amendments on Rustic Roads Program

Article 8 of County Code Chapter 49 covers the Rustic Roads Program. Bill 24-22 only includes a few technical changes. **The T&E Committee concurs with these technical changes.** However, the RRAC and several individuals have recommended some substantive amendments, described below:

Membership of the RRAC. The Code specifies that there be seven members, as follows:

- (1) 3 members who are owner-operators of commercial farmland earning 50 percent or more of their income from farming, one of whom is a representative of the Agricultural Advisory Committee;
- (2) one member who knows rural preservation techniques through practical experience and training;
- (3) one member who knows roadway engineering through practical experience and training;
- (4) one member who represents civic associations located in the Agricultural Reserve; and
- (5) one member who represents civic associations in areas located outside the Agricultural Reserve where there are rustic roads.

The RRAC recommends adding two at-large members, bringing the total to nine. The Montgomery Countryside Alliance (MCA), Leslie Saville and Eve Sandmeyer also support this. The rationale is that two more members would allow for more representation from the general public and would allow for more racial diversity on the panel.

The RRAC, MCA and Ms. Saville also recommend removing the requirement that the 3 members who are owner-operators of commercial farmland be required “to earn 50 percent or more of their income from farming.” The percentage is difficult to quantify, and many owner-operators have non-farming income (such as investment income) which can fluctuate annually. This requirement has often been a stumbling block in filling some of the owner-operator positions (see ©148-149 and ©152-156).

The Agricultural Preservation Advisory Board (APAB) opposes both proposals. They believe they would diminish farmers’ influence in the decisions made by the RRAC. They claim they would allow the RRAC to select candidates that would not keep agricultural interests in the forefront (©157-158).

Planning and DOT staffs recommend that the T&E Committee and Council postpone deliberations on the composition of the RRAC until the Council takes up the update to the Rustic Roads Functional Master Plan update in 2023. The Public Hearing Draft of that plan has been released, and the Planning Board’s public hearing is scheduled for November.

Council staff concurs with both RRAC’s proposals. The RRAC does not pick the candidates: the County Executive does. There is nothing to prevent the ACAB or the Executive’s Office of Agriculture to recommend to the Executive one or more farmers to fill an open farmer position, or an open at-large position, for that matter. Either should be able to identify legitimate farmer candidates without having to delve into one’s private finances.

The T&E Committee concurs with Planning and DOT staffs to defer discussion of the RRAC’s composition until it takes up the Rustic Roads Functional Master Plan. The composition would not be part of the Plan; any change would require subsequent legislation.

The RRAC also recommends two technical changes. Section 78(b)(5) refers to “the history of vehicle and pedestrian *accidents* on the road ...”, but the favored Vision Zero term is “crashes,” not “accidents.” Section 80(f) refers to the RRAC as a “Commission,” but it should be a “Committee.” **The T&E Committee concurs with both revisions.**

ZTA 22-10

Background

ZTA 21-10 updates existing roadway classifications with new roadway classifications from Chapter 49 and the Complete Streets Design Guide, consistent with Bill 24-22.

T&E Committee Amendments

The T&E Committee recommends approval of ZTA 22-10 with three amendments proposed by the Planning Board:

1. The District Council adopted three ZTA's since the introduction of ZTA 22-10 that contain references to roadway classifications. ZTA 22-02, adopted July 26, 2022, changed the density and height limits for certain biohealth users. ZTA 22-05, adopted September 20, 2022, was a comprehensive rewrite of the Signs section of the Zoning Ordinance. ZTA 22-06, adopted September 20, 2022, created exemptions for historic sites. All three ZTA's reference "arterial or higher classified roadways." This language should be amended to say: "Area Connector or higher classification of roadway."
2. The T&E Committee recommends amending the definition of "Road" to include all the new road types:

Road[, Arterial]: A right-of-way with a classification of Freeway, Parkway, Controlled Major Highway, Boulevard, Town Center Boulevard, Downtown Boulevard, Town Center Street, Downtown Street, Industrial, Area Connector, Neighborhood Connector, Country Connector, Country Road, Rustic Road, Exceptional Rustic Road, Neighborhood Street, Neighborhood Yield Street, Residential Shared Street, Commercial Shared Street or Alley[See] under Chapter 49.

3. The Zoning Ordinance uses "street" and "road" interchangeably. While Residential Street and Nonresidential Street are defined, "street" generally is not. The T&E Committee recommends adding a new definition for "street", that would refer to the definition for "road."

SRA 22-01

Background

SRA 22-01 amends Chapter 50, specifically the section on Roads under Section 4.3.E. The changes include:

- Adding a section providing guidance on protected crossings, including using HAWK, all-way stop, or grade separated crossings, focusing on pedestrian safety, and considering the adjacent land uses and built environment

- Updating the table that shows recommended distances between intersections based on road classification, to reflect the new road classification types, new recommended distances between intersections, and adding a new column for protected crossing spacing targets
- Updating the horizontal alignment minimum permitted centerline radii by updating the roadway terminology
- Technical updates to the subsection on private roads, replacing existing roadway classifications with updated terminology

T&E Committee Amendments

The T&E Committee recommends approval of SRA 22-01 with two amendments proposed by the Planning Board:

1. First, new language was added including protected crossings in the intersection design standards, but the definition for a protected crossing was not included. The T&E Committee recommends amending this section to explain where to find a definition of protected crossing, and to clarify that protected intersections may include the listed types. The proposed amendment reads:

On streets with operating speeds of 30 mph or higher, protected crossings shall be included, as defined in Chapter 49 of the County Code. Protected crossings include HAWK signals, all-way stop controlled intersections, or grade-separated crossings. Protected crossing spacing targets are shown in the table below, as measured from the centerline of the intersections. Engineering judgement is needed to determine the ultimate placement and spacing between signals, with a focus on sight lines, road safety, location of trip generators, bus stops, and prevalent crossing patterns. Where ranges are provided, the lower end of the range is recommended in commercial areas, on BRT corridors, and near schools (or similar destinations).

2. Second, where the SRA states when a Neighborhood Street or Neighborhood Yield Street may be a private road, the T&E Committee recommends changing “and” to “or” since both conditions are not necessary. The proposed amendment reads:

- vii. A [secondary road] Neighborhood Street or a Neighborhood Yield Street may be a private road only when it
 - (a) connects to no more than one higher classification road and the road does not need to be extended onto adjacent property to facilitate a future subdivision of land[.]; ~~[[and]]~~ or,
 - (b) when it has a cul-de-sac less than 500 feet in length.

This packet contains:

Bill 24-22	© 1
ZTA 22-10	© 62
SRA 22-01	© 88
County Executive Transmittal, Bill 24-22	© 96
Legislative Request Report, Bill 24-22	© 97

Fiscal Impact Statement, Bill 24-22	© 98
Economic Impact Statement, Bill 24-22	© 100
Planning Board Recommendations for Bill 24-22, ZTA 22-10, and SRA 22-01	© 106
Planning Staff Report for Bill 24-22, ZTA 22-10 and SRA 22-01	© 114
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Councilmember Riemer May 2, 2016 Memo re Complete Streets Guide Funding	© 173

Bill No. Bill 24-22
Concerning: Streets and Roads
Revised: 7/20/2022 Draft No. 1
Introduced: July 26, 2022
Expires: _____
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN ACT to:

- (1) amend Chapter 49 to incorporate complete streets principles into the design and construction of roads; and,
- (2) generally amend Chapter 49 to modernize the street and road standards.

By amending

Montgomery County Code

Chapter 49, Streets and Roads

Sections 49-1, 49-2, 49-3, 49-4, 49-5, 49-6, 49-7, 49-9, 49-10, 49-11, 49-11A, 49-12, 49-14, 49-17, 49-19, 49-19A, 49-19B, 49-20, 49-21, 49-22, 49-23, 49-25, 49-26, 49-27, 49-28, 49-29, 49-30, 49-31, 49-32, 49-33, 49-34, 49-35, 49-36, 49-36A, 49-37, 49-38, 49-39, 49-40, 49-45, 49-50, 49-51, 49-53, 49-57, 49-62, 49-77 and 49-78

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

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

Sec. 1. Sections 49-1, 49-2, 49-3, 49-4, 49-5, 49-6, 49-7, 49-9, 49-10, 49-11, 49-11A, 49-12, 49-14, 49-17, 49-19, 49-19A, 49-19B, 49-20, 49-21, 49-22, 49-23, 49-25, 49-26, 49-27, 49-28, 49-29, 49-30, 49-31, 49-32, 49-33, 49-34, 49-35, 49-36, 49-36A, 49-37, 49-38, 49-39, 49-40, 49-45, 49-50, 49-51, 49-53, 49-57, 49-62, 49-77 and 49-78 are amended as follows:

ARTICLE 1. IN GENERAL.

Sec. 49-1. Compliance with standards; regulations; penalty for violations.

(a) A public road, bridge, sidewalk, or bikeway must not be constructed, reconstructed, repaired, graded, improved or maintained by any person unless the construction, reconstruction, repair, improvement, grading or maintenance fully complies with this Chapter and any regulations issued under it.

* * *

Sec. 49-2. Resolving doubt as to location of County roads.

(a) Whenever any doubt exists as to the proper location or width of a County road, the Director of Transportation may cause the road to be surveyed and a description and plat made of it and recorded [or filed] in the County land records. [This description and plat must be treated as correct by the County and in the State courts until shown to be incorrect.]

* * *

Sec. 49-3. Authority to classify road repairs.

The Director of Transportation may decide whether a [given] road repair [job] should be classified as maintenance or construction under this Chapter.

Sec. 49-4. Public-private participation.

The County Executive[, on behalf of the County,] may contract with any person[, who is [building a real estate development or subdivision] developing land in the County[, to participate in the cost of any [street] road, including any sidewalk,

bikeway, gutter, curb or drainage construction, landscaping, traffic control device, bikeshare station, electric vehicle charging station, or placement of utilities, conduits, or other amenities in a [street or] road dedicated to public use.

Sec. 49-5. Right to drain dedicated roads without liability to abutting owners.

If any road is dedicated to the use of the public by a private grant, the grant must include the right [at all times] to properly drain the road, including a grant to the County of any necessary easements, without liability of the County to any abutting owner for any resulting injury.

Sec. 49-6. Roads used for 20 years may be declared public highways.

[(a)] Whenever any road has been used by the public for 20 or more years, though the road may never have been condemned or granted as a public [highway] road and regardless of whether the road termini are public, the County Executive may by Executive order published in the County Register declare the road to be [a] public [highway].

[(b)] The public right-of-way of a road declared as a public highway under subsection (a) must include permanent maintenance easements which extend 10 feet beyond each pavement edge.]

Sec. 49-7. Authority of special taxing districts to regulate streets and roads.

[(a)] Any special taxing district which has the authority to pave and maintain streets and roads may adopt and amend reasonable regulations under Method (2) governing the construction, maintenance, improvement, grading, and repairing of the roads and streets in the district, including those dedicated for public use.

[(b)] In adopting regulations, the special taxing district may, by resolution, incorporate any similar County regulation.]

* * *

Sec. 49-9. Removal of items that obstruct the vision of motorists on public highways or interfere with the use of public rights-of-way.

(a) Notice to owner of property. If the Director of Transportation finds that any tree, bush, vine, undergrowth, or other obstruction, except a building or similar structure affixed to the ground, on private property poses a threat to public safety by obstructing the vision of operators of vehicles traveling on any public [street,] road[, or highway,] interfering with the public rights-of-way as a traffic hazard, limiting access by Fire and Rescue Service vehicles, or restricting the use by pedestrians or bicyclists of the public rights-of-way, the Director promptly must serve on the owner, agent, lessee or any other person supervising the property a written notice that:

* * *

Sec. 49-10. Obstruction of public rights-of-way.

Except as provided in Section 49-11, in the public right-of-way, a person must not:

(a) place, maintain, use, permit, allow, or exercise control over, any object or structure [in the public right-of-way];

[(b) allow any object or structure owned by the person to occupy, obstruct, or encroach upon the public right-of-way;]

[(c)](b) perform any reconstruction or maintenance work; or

[(d)](c) allow the erection or placement of any structure, fence, post, rock, or other object [in the public right-of-way], except:

(1) [mail boxes] mailboxes mounted on a support that will bend or break away on impact by a vehicle;

(2) individual residential newspaper boxes mounted on a support that will bend or break away on impact by a vehicle;

- (3) street trees placed and maintained under Section 49-33(j);
- (4) ground cover placed and maintained under Section 49-33(k);
- (5) a temporary, removable obstruction or occupation of a right-of-way installed under a permit issued under Section 49-11; or
- (6) as otherwise permitted by law.

Any object placed in the public right-of-way under Section 49-10[(d)](c) must not [unreasonably] impede use of a sidewalk or other right-of-way by pedestrians or persons in wheelchairs, or impede or endanger automobiles or other vehicles.

Sec. 49-11. Permit to obstruct public rights-of-way.

- (a) *Definitions.* In this [section] Section, the following terms have the meanings indicated.

Public includes pedestrians, bicyclists, and transit users.

Safe alternative path means an alternate [walkway or shared use path] sidewalk or sidepath that:

- (A) is on the same side of the street as a temporary closure; and
- (B) provides safe access and passage to pedestrians.

Temporary closure means a temporary obstruction, blockage, or occupation of a right-of-way under a permit issued by the Director of Permitting Services under this Section.

- (b) [Notwithstanding Section 49-10, and subject] Subject to subsections (c) and (d) of this Section, the Director of Permitting Services may issue a permit to:

- (1) reconstruct or repair a sidewalk, [shared use path] sidepath, driveway, curb, or other structure;
- (2) repair, locate, or replace underground utilities or infrastructure under a sidewalk or [shared use path] sidepath;

- (3) install a temporary, removable obstruction or occupation of a right-of-way;
- (4) close a curb lane, sidewalk, or [shared use path] sidepath in conjunction with the construction or reconstruction of an abutting structure;
- (5) install permanent, nonstandard structures in the right-of-way that were approved by the Planning Board, the City of Rockville, or the City of Gaithersburg in a site plan as a site element of streetscape. Streetscape [includes] means street furnishings[,] and fixtures [and elements in connection with] used by the public [use of] in the right-of-way but does not include [enclosed] structures [or vaults] or improvements for private use. The permit applicant must execute a declaration of covenants that runs with the land on which [the project associated with] the streetscape [is being developed] will be installed to perpetually maintain the permitted streetscape in a good and safe condition; return the right-of-way to its condition before the permitted streetscape was installed if the nonstandard permitted streetscape is removed; and indemnify the County from any cost or liability associated with the construction, maintenance, use or removal of the nonstandard permitted streetscape; or
- (6) install a private, non-commercial structure that is accessory to a residential use. The permittee must execute a maintenance and liability agreement that is approved by the Director of the Department of Permitting Services.

* * *

(d) *Time limits for temporary closures without safe alternative paths.* Except as provided in subsections (e) and (f):

- (1) a temporary closure to reconstruct or repair a sidewalk or [shared use path] sidepath must not exceed 6 months without the provision of a safe alternative path; and
- (2) any other temporary closure must not exceed 15 days without provision of a safe alternative path.

* * *

(f) *Short extensions for hardship.*

- (1) The Director may grant one extension of a time period under subsection (d), for no more than 15 days, on a showing [of extreme] by the applicant of undue hardship involving significant difficulty or expense.
- (2) The Executive must adopt regulations under Method [(2)] (3) to specify the standards a permittee must meet to demonstrate [extreme] undue hardship involving significant difficulty or expense.

* * *

Sec. 49-11A. Permit to temporarily obstruct private roads.

(a) A person must not close any portion of a private road that is an urban road as defined in Section 49-32 without a permit from the Director of Permitting Services.

(b) The Director of Permitting Services may issue a permit for the complete or partial closure of a private road on a temporary basis if the closure does not:

- (1) violate Chapter 22;

- (2) [unreasonably] interfere with use of the private road by persons with disabilities;
- (3) [unreasonably] impede or endanger the users of any building or structure adjacent to or abutting the private road; or
- (4) adversely impact the use of connecting public roads.

* * *

- (d) The Director of Permitting Services may charge a fee, set by Method [3] (3) regulation, for the permit application and may include conditions in each permit that provide for the safety of any user of a building or structure adjacent to or abutting the private road, including providing for safe alternate access to and egress from any building or structure.

* * *

Sec. 49-12. Exemptions from Sections 49-10 and 49-11.

- (a) Subject to paragraphs (1) and (2), Sections 49-10 and 49-11 do not apply to, and no permit under those Sections is required of, any municipality, special taxing district or government agency [authorized by law] to construct streets, roads, sewers, or drainage facilities in the County over which the entity has jurisdiction. However:

- (1) Sections 49-10 and 49-11 apply to any road that is located in a municipality and owned or maintained by the County; and
- (2) if the County owns or maintains a right-of-way, Section 49-11 applies to any temporary closure of the right-of-way [in connection with construction or reconstruction on abutting property owned by the County].

- [(b) Sections 49-10 and 49-11 do not apply to any vehicle operated by a fire department, public utility, or first aid provider, while that vehicle is being used to provide emergency services.]

* * *

Sec. 49-14. Debris likely to injure persons, animals, or vehicles.

A person must not place or leave in or on any public [highway or street] road, any debris liable to cause injury or damage to any vehicle or personal property. Any violation of this Section is a Class C violation.

* * *

Sec. 49-17. Accumulation of snow and ice on property prohibited.

(a) *Legislative [Findings] findings.*

- (1) During significant winter storm events, Montgomery County's sidewalks often become impassable and covered in piles of snow that are pushed aside from the road as a result of County and State snowplows. The scope of the problem is prevalent on Montgomery County's busiest roads, where sidewalks are often within an arm's reach of traffic.
- (2) These blocked sidewalks often persist for days following the end of a snowstorm, creating a significant pedestrian safety hazard that often forces pedestrians to walk in a lawn with oncoming traffic.
- (3) County law allocates the responsibility of property owners to clear snow on a public sidewalk fronting their property within 24 hours of the end of snowfall. However, such clearing rarely occurs due to a variety of reasons, including the difficulty of removing the large piles of compacted snow and ice created by plow trucks.
- (4) The County, in its current operation, clears sidewalks in urban districts and approximately sixty (60) miles of sidewalks with no adjacent residential or commercial property owner outside of such areas.

(5) Snow-covered and icy sidewalks adversely affect essential workers and commuters, who often travel by foot or public transportation, and must walk along high-traffic roads to get to bus stops and retail stores.

(6) It is in the best interest of the County to adopt fair, reasonable and equitable legislation to address safety hazards and increase walkability access on sidewalks for pedestrians during winter storms.

(b) (1) *Definitions.* In this Section:

(A) *Commercial property* means real property that either:

(i) is not designed for or intended for human habitation;
or

(ii) contains a multi-family dwelling of four or more units.

(B) *Residential property* means real property containing either:

(i) a [single family] single-family dwelling; or

(ii) a [multifamily] multi-family dwelling of three or fewer units.

(C) *Department* means the Department of Transportation.

(D) [Non-Buffered Sidewalk] Non-buffered sidewalk means a sidewalk along a roadway that does not contain a grass strip or other physical separation between the sidewalk and the adjacent curb or road edge.

(E) *Orphan [Sidewalk]* sidewalk means a sidewalk either abutting a State or County road and be located:

(i) adjacent to a vacant lot;

- (ii) an overpass with no adjacent commercial or residential property adjoined; or
- (iii) behind a residential or commercial property that is not directly accessible from the owner's property and is separated from the sidewalk by a fence, guardrail, or change in elevation grade.

- (2) A person is responsible for removing snow and ice on any sidewalk, sidepath, other [walkway] areas intended for public pedestrian access, [shared use path,] or parking area on or adjacent to property that the person owns, leases, or manages, [including any walkway in the public right-of-way,] to provide a pathway wide enough for safe pedestrian and wheelchair use. For purposes of this Section, commonly owned property between a single-family residential lot and a common [walkway] sidewalk or sidepath is considered part of the lot if the intervening common property includes a [walkway] sidewalk, sidepath, or driveway that serves only that lot.
- (3) Except as provided in paragraph (5), each owner, tenant, or manager is jointly and severally responsible for clearing snow and ice from the property and complying with Section 31-26A(d).
- (4) The requirements of this Section do not apply to:
 - (A) an unpaved [walkway] sidewalk;
 - (B) a private [walkway] sidewalk or parking area on the property of a single-family residence;
 - (C) a public [walkway] sidewalk or sidepath behind a single-family residence that is not directly accessible from the owner's property;

- 265 (D) a [walkway] sidewalk that:
- 266 (i) is at least 25 feet from vehicular traffic;
- 267 (ii) serves only pedestrian destinations that are also
- 268 accessible by another [walkway] sidewalk that this
- 269 Section requires to be cleared;
- 270 (iii) was not routinely cleared of snow and ice after
- 271 August 1999; and
- 272 (iv) is not the primary route for pedestrian access to a
- 273 winter recreational facility open to the public; or
- 274 (E) any non-buffered sidewalk or path as specified under
- 275 Section 49-17(j), regardless if the private property is
- 276 fronting or abutting the sidewalk.
- 277 (5) (A) An individual who lives in a multi-family residential
- 278 property is not responsible for removing snow and ice from
- 279 a common [walkway] sidewalk, sidepath, or parking area.
- 280 (B) A homeowners' association, as that term is used in State
- 281 law, is not responsible for removing snow and ice from a
- 282 [walkway] sidewalk or sidepath adjacent to a single-family
- 283 residential lot, if the lot owner is responsible under
- 284 paragraph (1) for removing snow and ice from that
- 285 [walkway] sidewalk or sidepath.
- 286 (c) If ice or hardpacked snow is impossible or unreasonably difficult to
- 287 remove, the person is responsible for applying sufficient sand, other
- 288 abrasives, or salt to provide safe pedestrian use.
- 289 (d) The person is responsible for removing snow and ice within 24 hours after
- 290 the end of the precipitation that caused the condition. If a snowplow
- 291 redeposits snow or ice on a sidewalk, sidepath or other [walkway] area

intended for pedestrian access after a person has complied with this Section, the person is not responsible for clearing the [walkway] area until 24 hours after the snowplow redeposited the snow or ice.

(e) The County Executive must designate a department to enforce this Section and may designate other County employees or contractors to enforce this Section.

(f) The Executive may order a different deadline or conditions for removing snow and ice during or immediately after a severe or unusual storm or other public-safety condition.

(g) In addition to any other remedy or penalty for a violation of this Section, the County may clear the snow and ice and charge the responsible property owner for the cost, which the County may collect in the same manner as property taxes.

(h) *Violations.*

* * *

(i) *Sidewalk [Snow Removal Plan] snow removal plan.*

* * *

(j) *Sidewalk [Snow Removal] snow removal – Required.* The Executive must implement a plan and require the Department to remove or cause to be removed snow and ice accumulation from the last day of precipitation within the following designated areas:

* * *

Sec. 49-19. Conversion of overhead lines to underground locations.

If the construction or improvement of any County road requires any person to relocate any overhead electric, telephone, or other overhead line or related facility in any County road right-of-way, the County Executive must, by regulation adopted under [method] Method (3), require that any affected line must be installed

underground if the Executive finds that underground installation is desirable after considering the following factors:

* * *

Any regulation to implement this Section must require the replacement of any street light removed during the [conversion of any line to an underground location] installation of underground facilities.

Sec. 49-19A. [Energy-efficient street lights.

- (a) *Definitions.* In this Section, the following words have the meanings indicated:

Director means the Director of the Department of Transportation.

Light-emitting diode or *LED light* means a semiconductor device that produces visible light when an electrical current is passed through it.

- (b) When any contract to maintain street lights owned by the County in effect on January 21, 2014, expires, any later maintenance contract must be with a company that commits to install LED lights or another energy-efficient technology that the Director finds is equivalent or superior to LED lights.

Sec. 49-19B] Permit exemption for the Purple Line.

- (a) The State of Maryland, including its agencies and divisions, is exempt from any permitting requirement in Chapters 8 (“Buildings”), 17 (“Electricity”), 22 (“Fire Safety Code”), and 49 (“Streets and Roads”) for the construction of:

- (1) any portion of the Purple Line that is located within the public right-of-way under a valid franchise agreement approved by the County Council under Section 49-21; and
- (2) any structure related to the Purple Line owned by the State of Maryland or its agencies or divisions, including any hiker/biker trail that will be owned or maintained by the County.

- (b) However, the State of Maryland, and its agencies, divisions, and contractors, must obtain any permit required under Chapter 8, 17, 22, and 49 for the construction or alteration of any structure owned by the County, except the hiker/biker trail, or by a private person or entity.

ARTICLE 2. FRANCHISES.

Sec. 49-20. Franchises for use of street; procedure for granting; notice and hearing.

The Council [must not grant any] may approve a franchise [in relation to] for the occupation of any [highway, avenue, street, lane, alley,] road or other right-of-way, either on, above, or below the surface[, until all requirements of this Article have been met] if the following requirements are met:

- (a) *Application to be published.* The applicant must publish notice of each application for [any] a franchise once a week for 3 successive weeks in one or more newspapers of general circulation in the County, specifying:
- (1) [the essential] a summary of terms of the proposed franchise;
 - (2) the compensation the County [will] may receive, [which may take the form of] including in-kind goods and services [as well as cash payments]; and
 - (3) the location, character, and extent of the use of the right-of-way.
- (b) *Inquiry as to value.* [After the notice required by subsection (a) is published, the] The County Executive or a designee [must] may investigate the value of the proposed franchise and the adequacy of the compensation proposed to be paid for it.
- (c) *Hearing on objections.* If any taxpayer, or any property owner whose property [right] rights may be affected by the grant of the franchise, files an objection to the granting of the franchise in writing with the County Executive within 10 days after the last notice required by subsection (a)

appears, the County Executive or a designee must hold a hearing within 15 days after the objection is filed on the proposed franchise and any objections to it.

- (d) *Recommendations of County Executive.* The County Executive must, [in each case,] after any hearings required by this Article, forward to the Council written recommendations concerning the proposed franchise, including the Executive's findings as to the value of the proposed franchise, any response to objections which have been raised, and any other relevant issues.

* * *

Sec. 49-21. Council action.

- (a) [If the Council finds that granting the franchise is expedient and proper, the] The Council may grant [such] a franchise for such compensation as it, after considering the recommendations of the County Executive, finds proper, for a period not longer than 25 years. If the franchise allows the location of a permanent structure with a useful life [substantially] longer than 25 years in the County right-of-way, the initial term of the franchise may exceed 25 years.
- (b) [At the option of the Council, the approved] The franchise may allow the [grantee] franchisee to renew the franchise, after [a fair revaluation,] the County determines the value of the renewed franchise [including the value, if any, derived from the franchise or renewals,] for one or more terms that each do not cumulatively exceed [another] 25 years.
- (c) Every grant of any franchise must provide, by forfeiture of the grant, for compelling compliance with its terms [and to secure efficiency of public service at reasonable rates] and the maintenance of the [property] right-

of-way in good condition, throughout the grant. [Each grant must also specify:

- (1) the mode of determining any valuation and revaluation under this Article,
- (2) the time limit to exercise the rights given, and
- (3) the procedure for default for a lapse of the franchise.]

* * *

Sec. 49-22. County [Council] to retain [municipal] control.

When the Council grants a franchise under this Article, the [Council] County must [not part with, but must expressly reserve, the right and duty at all times] continue to exercise full [municipal] control [and regulation in respect to all matters connected with the franchise not inconsistent with its terms] over the franchised right-of-way.

Sec. 49-23. Certain private rights not affected.

Nothing in this Article is intended to affect any private right, [including the right of any adjacent property owner held by law in 1910,] except as necessary to comply with this Chapter.

ARTICLE 3. ROAD DESIGN AND CONSTRUCTION CODE.

Sec. 49-25. Complete streets policy and standards.

This Article is intended to guide the planning, design, and construction of transportation facilities in the public right-of-way. Each transportation facility in the County must be planned and designed to:

- (a) maximize the choice, safety, convenience, and mobility of all users, regardless of age, ability, or mode of transportation,
- (b) maintain or expand connectivity for users,
- (c) respect and maintain the [particular character of] master plan recommendations for the community where it is located,

(d) ensure access, convenience, safety, and investment of resources are equitably applied,

[(d)](e) minimize stormwater runoff and otherwise preserve the natural environment, and

[(e)](f) facilitate, to the maximum extent possible, the future accommodation of improved transportation technology elements, such as intelligent signals, smart parking meters, electric vehicle charging, car- and bicycle-sharing, and way-finding systems.

To achieve these goals, each County road and street must be designed so that the safety and convenience of all intended users of the roadway system [– including pedestrians, bicyclists, transit users, automobile drivers, commercial vehicles and freight haulers, and emergency service vehicles –] is accommodated. [Each road and street must facilitate multi-modal use and assure that all users can travel safely in the public right of way. A specified quantity of stormwater must be managed and treated on-site, in the road or street right-of-way, including through the use of vegetation-based infiltration techniques.] Complete streets function as a road transportation network that is safe and convenient for all intended users, regardless of mode. Stormwater management requirements, including vegetated and structural practices, may be met on-site and within the public right-of-way. [These context-sensitive] Complete streets policies must be employed in all phases of publicly or privately funded facility development, including planning, design, construction, reconstruction, and streetscaping. [Each transportation project must incorporate complete streets infrastructure sufficient to promote safe and convenient travel along and across the right-of-way for all users.]

The County Executive must adopt under Method [(3)] (2) a Complete Streets Design regulation that provides guidance on the planning, design, and operation of roadways for all intended users.

This Article may be cited as the “Montgomery County Road Design and Construction Code.”

Sec. 49-26. Definitions.

In this Chapter, except where specified otherwise, the following words and phrases have the meanings indicated:

Bikeway[:] means any area expressly intended for bicycle travel, including associated curbs and gutters and any:

[(a) *Shared use path*: A paved path that abuts, is contiguous with, and is a part of the right-of-way for a County road or street, that is typically 10 feet wide but can vary between 8 feet and 14 feet wide, designated for bicycles and pedestrians, that is separated from motorized traffic by a curb, barrier, or landscape panel.

(b) *Shared use trail*: A paved or unpaved trail designated for bicycles and pedestrians, that is not part of the right-of-way for a County road or street because the trail does not abut and lie contiguous with the right of way for a County road or street.

(c) *Bike lane*: A portion of a roadway designated by striping, signing, or pavement markings for the preferential or exclusive use of bicycles, and on which through-travel by motor vehicles is not allowed.]

(a) *Bike lane* means a portion of a roadway designated by striping, signing, or pavement markings for the preferential or exclusive use of bicycles, and on which travel by motor vehicles is not allowed.

(b) *Off-street trail* means paths located outside of the road right-of-way that provide two-way travel for people walking, bicycling and using other non-motorized modes. This facility was formerly referred to as a “shared use trail.”

(c) Separated bike lane, also known as a protected bike lane or cycle track means an exclusive bikeway that is physically separated from motor vehicles and distinct from the sidewalk. A separated bike lane may be in a one-way or two-way configuration.

(d) Shared use roadway[:] means [A] a roadway open to both bicycle and motor vehicle travel and which is designated as a preferred route for bicycle use by warning or informational signs.

[(e) Separated bike lane, also known as a protected bike lane or cycle track: a bikeway that is physically separated from motor vehicles and pedestrian facilities. The separation may be vertical, such as a curb; horizontal, such as a landscape panel or parking lane; or a combination. A separated bike lane may be in a one-way or two-way configuration.

(f) Buffered bike lane: a bikeway separated from a motor vehicle travel lane with an area of striped pavement.]

(e) Sidepath means a paved path that is located parallel to and within the road right-of-way. Sidepaths provide two-way travel routes designated for walking, bicycling, jogging and skating. Sidepaths are separated from motorized traffic by a curb, barrier, or landscape panel. This facility was formerly referred to as a “shared use path”.

Complete streets[:] means streets that are planned, designed, and constructed to enable safe access for all intended users, including pedestrians, bicyclists, motorists, and transit riders of all ages and abilities, commercial vehicles, freight haulers, and emergency service vehicles.

Complete streets infrastructure[:] means any design feature that contributes to a safe, convenient, and comfortable travel experience, which may include such features as sidewalks; [shared use paths] sidepaths, bike lanes, and separated bike lanes; bike stations and bike storage facilities; narrow motor vehicle lanes and tight curb radii;

street trees, planting strips, and other right-of-way landscaping; curbs and accessible curb ramps; curb extensions, crosswalks, and refuge islands; raised medians; pedestrian and traffic signals, including countdown and accessible signals; signage; streetlighting; street furniture; bicycle parking facilities; stormwater management; public transportation stops and shelters; dedicated transit lanes; and traffic calming devices.

Construction and *constructed* include “reconstruction” and “reconstructed” but not “maintenance,” and include grading, installation of drainage structures, paving, curbs and gutters, curb returns, sidewalks and other areas intended for pedestrian access, bikeways, driveway entrances, guardrails, retaining walls, sodding, and planting.

Curb extension[:] means an area that extends the line of a curb into a parking lane, reducing the width of a street.

Curbside Width[:] means the area beyond each curb necessary for sidewalks, [shared use paths] sidepaths, street trees and other landscaping, streetlights, utilities, and other elements.

Dedication plat[:] means [Any] any plat conforming to law, duly recorded in the County land records, which has the legal effect of dedicating one or more rights-of-way to public use. If the plat was recorded after the Maryland-National Capital Park and Planning Commission was created, and the property is located in the Commission’s jurisdiction, the Commission must have approved the plat.

Design standard[:] means the standard adopted by regulation under this Article for each type of road, as defined in Section 49-31, except Freeways and Controlled Major Highways, which shows typical cross-sections and other dimensions to which the road must conform.

Director[:] means [The] the Director of Transportation or the Director of Permitting Services, as specified, and each Director’s designee.

Drainage structure[:] means [Any] any culvert, bridge, storm drain, storm sewer, catch basin, canal, channel, inlet, ditch, or subsurface drain, and any other structure or watercourse designed to convey surface or other waters.

Dual road[:] means [Any] any road in which the travel directions are separated by a median.

Forest conservation plan[:] means [A] a plan for the retention, afforestation, or reforestation of forest and trees approved under Chapter 22A.

Ground cover[:] means [Low] low-maintenance, non-invasive, leafy, grassy, or woody vegetation that covers and holds soil.

Maximum target speed[:] means the maximum speed at which vehicles should operate on a thoroughfare in a specific context, consistent with the level or multimodal activity generated by adjacent land uses, to provide mobility for motor vehicles and a safe environment for pedestrians and bicyclists.

[*Pedestrian walkway:* Any sidewalk, and any other land, way, or path designated by appropriate signs for a pedestrian route.]

Private road[:] means [Any] any road [street, highway, avenue, lane, alley, or viaduct,] or any segment of [any of them] a road, including any [pedestrian walkway] sidewalk, sidepath, or other area intended for pedestrian access adjacent to the private road that has not been deeded, dedicated or otherwise permanently appropriated to the public for public use or County maintenance.

Protected Crossing means specific traffic control devices that improve the safety and comfort of pedestrians and bicyclists crossing streets by reducing or eliminating conflicts, as well as increasing stopping and yielding for pedestrians and bicyclists, using measures such as traffic signals (full signals with pedestrian signals), pedestrian hybrid (HAWK) beacons, all-way stop control, or grade-separated crossings.

Reconstruct and *reconstruction* include any change in the width, alignment, or design of a road or other structural features within or along a roadway [– that is, the width of the pavement or the area between curbs –] but [do] does not include resurfacing a road, bikeway, or sidewalk without any change in its width.

Road[:] means [Any] any road, street, highway, avenue, boulevard, lane, alley, bridge, [shared use path] sidepath, sidewalk, viaduct, or any segment of any of them, and any related storm drain and stormwater management facility.

Rural area means an area designated as the Rural East and Rural West policy areas in the Growth and Infrastructure Policy.

Sidewalk[:] means any portion of the right-of-way for a County road [or street] that is expressly intended [as a pedestrian walkway] for pedestrians, including pedestrian ramps.

Specimen tree[:] means [Any] any tree with a diameter measured at 4.5 feet above the ground of 30 inches or more, or any tree with 75% or more of the diameter of the current champion tree of that species, as designated by the County Forest Conservation District Board.

Speed hump means a parabolic or flat-top device used to create vertical deflection along a roadway for traffic calming purposes. These may include wheel gaps that allow target vehicles to pass through unaffected or flat-top devices may include crosswalks.

Street tree[:] means [A] a tree that is listed in the design standards as acceptable for planting in a public right-of-way. In a private road right-of-way or easement, a tree listed as acceptable for planting in the Planning Board technical manual for forest conservation.

Subdivision[:] means [The] the division or [partition] assemblage of a lot, tract or parcel of land into [2] one or more lots, plots, sites, tracts, parcels, or other divisions

for immediate or future rental, sale, or building development. *Subdivision* includes a re-subdivision, but not a division or partition of land for agricultural purposes.

Transitway[:] means a right-of-way for use exclusively by public transit vehicles.

Urban area means areas depicted ~~[[by Appendix E]]~~ in the Master Plan of Highways and Transitways as amended, or by any replacement functional, master, or sector plan that defines urban areas or urban road code boundaries.

Sec. 49-27. Applicability of Article.

This Article applies to all roads in the County, except any:

- (a) [State] state road;
- (b) [Federal] federal road;[.]
- (c) [Road] road located in any part under the jurisdiction of the Maryland-National Capital Park and Planning Commission;
- (d) [Private] private road; or
- (e) [Municipally] municipally owned and maintained road.

Nothing in this Article prevents the County from building, and assessing the cost of, any drainage structure, curb or gutter, sidewalk, [shared use path] sidepath, curb return, or sidewalk and driveway entrance, along a [State] state or [Federal] federal road.

Sec. 49-28. Standards and specifications.

- (a) Except as otherwise provided in this Article, the construction of all roads must conform to the standards[, criteria] and specifications in this Article or any regulation adopted under this Article. As used in this Article, “standards” means County design standards including the regulation adopting the Complete streets design, and “specifications” means the most recent [State] state standard specifications for road construction and materials. When no County standards or specifications are applicable,

the County will apply the current guidance published by the American Association of State and Highway Transportation Officials (AASHTO) or National Association of City Transportation Officials (NACTO).

- (b) The [Director of Transportation] Executive may set a fee by [method 2] Method (3) regulation for the review of any plan or document submitted under Chapter 50 or this Chapter. Each fee must be based on the costs of reviewing any plan or document and any staff participation in the subdivision process. The Department must provide a copy of each fee regulation to the Planning Board.
- (c) The Department of Transportation must make available to the public, free or at a reasonable cost, an up-to-date copy of all applicable County road design standards and specifications.

Sec. 49-29. Pedestrian [walkways] sidewalks, bikeways, and wheelchair traffic.

- (a) The County must construct bikeways [[Bikeways]] and [walkways] sidewalks must be constructed when [[any County road]] it is [[constructed, reconstructed, or relocated]] constructing, reconstructing, or relocating a County road, except [any walkway]:
 - (1) any sidewalk or sidepath in front of a lot that is larger than 25,000 square feet for a single-family detached dwelling in a rural zone;
 - (2) any sidewalk or sidepath on any roadway that is classified as [exceptional rustic, rustic, country arterial, or country road] rustic or exceptional rustic;
 - (3) any sidewalk or sidepath on a [tertiary residential] neighborhood street or neighborhood yield street serving fewer than 75 dwelling units if the Planning Board and Department of Transportation [finds] find that a sidewalk is not expected to be [unnecessary] necessary for pedestrian movement[, or];

(4) any sidewalk if the site is located in an environmentally sensitive area with limits on the amount of impervious surface allowed. [.]

[[; or]]

[(5) where the Department of Permitting Services finds that a bikeway or sidewalk is infeasible because it will not connect to any destination within the foreseeable future, or the facility qualifies for fee payments in lieu of construction under Section 49-40.]]

Each bikeway and [walkway] s Sidewalk must conform to approved capital improvements programs and be consistent with applicable area master plans and transportation plans adopted by the Planning Board.

- (b) To promote the safety of bicycle and wheelchair travel throughout the County, the County Executive must adopt, by Method (3) regulation, standards and specifications to build and maintain ramps at curbed intersections and [storm water] stormwater gratings and other openings along roads and streets, in each case of a design and type that is not a hazard to bicycle and wheelchair traffic and is consistent with Americans with Disabilities Act best practices guidelines published by the United States Department of Justice. These ramps, gratings, and openings must be built and maintained as part of each project under subsection (a).

Sec. 49-30. Traffic [Calming] calming.

- (a) The Director of Transportation must consider installing traffic calming and bicycle- and pedestrian-friendly design features [in] on any [residential] area connector, neighborhood connector, neighborhood street, or neighborhood yield street over 1,000 feet long, [minor arterial, business district street] downtown street, town center street, and industrial street. Traffic calming features include raised crosswalks and raised intersections, traffic [circle] circles, medians, pedestrian refuge islands,

chokers, smaller centerline radii, parking cut-outs, chicanes, other forms
of horizontal or vertical deflection, and special paving and streetscaping
 in central business districts or other commercial areas.

(b) [Speed humps that are 12 feet wide may be built on any principal
 secondary residential street, secondary residential street, tertiary
 residential street, or alley, but must be spaced at least 500 feet from any
 other hump and 200 feet from any intersection. Speed humps that are 22
 feet wide may be built on any primary residential street, but must be
 spaced at last 500 feet from any other hump and 200 feet from any
 intersection. Speed humps that are 22 feet wide may be built on a minor
 arterial, but must be spaced at least 750 feet from any other hump and
 300 feet from any intersection. Before speed humps are installed in any
 road, all other requirements specified in applicable regulations must be
 met.] Speed hump location and placement:

(1) speed humps that are 12 feet wide may be built on any
neighborhood street, neighborhood yield street, or alley, but must
be spaced at least 500 feet from any other hump and 200 feet from
any intersection;

(2) speed humps that are 22 feet wide may be built on any downtown
street, town center street, or shared street, but must be spaced at
least 500 feet from any other hump and 200 feet from any
intersection;

(3) speed humps that are 22 feet wide may be built on a downtown
boulevard, town center boulevard, area connector, neighborhood
connector, rustic or exceptional rustic road, or industrial street, but
must be spaced at least 750 feet from any other hump and 300 feet
from any intersection; and

(4) before speed humps are installed in any road, all other requirements specified in applicable regulations must be met.

Sec. 49-31. Classification of roads.

[Each road, except those listed in subsections (m)-(n), must be classified as designated in the applicable master or sector plan. This Section defines the vehicular functions of each road classification.

- (a) A Freeway is a road meant exclusively for through movement of vehicles at a high speed. Access must be limited to grade-separated interchanges.
- (b) A Controlled Major Highway is a road meant exclusively for through movement of vehicles at a lower speed than a Freeway. Access must be limited to grade-separated interchanges or at-grade intersections with public roads.
- (c) A Major Highway is a road meant nearly exclusively for through movement of vehicles at a moderate speed. Access must be primarily from grade-separated interchanges and at-grade intersections with public roads, although driveway access is acceptable in urban and denser suburban settings.
- (d) A Parkway is a road meant exclusively for through movement of vehicles at a moderate speed. Access must be limited to grade-separated interchanges and at-grade intersections. Any truck with more than 4 wheels must not use a Parkway, except in an emergency or if the trust is engaged in Parkway maintenance.
- (e) An Arterial is a road meant primarily for through movement of vehicles at a moderate speed, although some access to abutting property is expected.
- (f) A Country Arterial is an Arterial, typically in the County's agricultural reserve.

- 720 (g) A Minor Arterial is a 2-lane Arterial meant nearly equally for through
721 movement of vehicles and access to abutting property.
- 722 (h) A Business District Street is a road meant for circulation in commercial
723 and mixed-use zones.
- 724 (i) An Industrial Street is a road meant for circulation in industrial zones.
- 725 (j) A Primary Residential Street is a road meant primarily for circulation in
726 residential zones, although some through traffic is expected.
- 727 (k) A Country Road is a road that has the function of a Primary Residential
728 Street, typically in the County's agricultural reserve.
- 729 (l) A Principal Secondary Residential Street is a Secondary Residential
730 Street meant to carry somewhat more through traffic.
- 731 (m) A Secondary Residential Street is a road meant to provide access between
732 a residential development with fewer than 200 dwelling units and one or
733 more higher classification roads as defined in subsections (b) through (l).
- 734 (n) A Tertiary Residential Street is a road meant to provide direct access to a
735 residential development with 75 or fewer dwelling units. A Tertiary
736 Residential Street must not be built unless the Planning Board allows its
737 use when the Board approves a preliminary subdivision plan or site plan.
- 738 (o) A Rustic Road or an Exceptional Rustic Road means a road classified as
739 either under Article 8.
- 740 (p) An Alley is a right-of-way intended to provide secondary service access
741 to the rear or side of lots or buildings and not intended for transporting
742 through traffic. An alley may be used to provide primary vehicular access
743 if the Planning Board and the Director of Transportation concur that the
744 dimensions and specifications proposed in a project, preliminary
745 subdivision, or site plan would provide adequate primary vehicular
746 access.]

(a) In this Article and the regulations adopted under it. County area types are as follows until subsequently designated by functional plans, master plans, or sector plans:

(1) A *downtown* area consists of areas with the highest intensity of development. These areas are:

(A) Bethesda CBD;

(B) Friendship Heights CBD;

(C) Silver Spring CBD;

(D) Wheaton CBD;

(E) White Flint Sector Plan area; [[and]]

(F) White Flint 2 Sector Plan area west of the CSX Metropolitan Branch[.];

(G) Life Science/FDA Village area of the 2014 White Oak Science Gateway Master Plan;

(H) Life Science Center Districts in the 2010 Great Seneca Science Corridor Master Plan: LSC Belward, LSC North, LSC Central and LSC West districts; and

(I) Rock Spring Sector Plan.

(2) A *town center* area consists of areas with moderate to high development intensity. These areas are:

(A) Burtonsville Town Center;

(B) Cabin Branch;

(C) Chevy Chase Lake;

~~[(B)]~~(D) Clarksburg Town Center;

~~[(C)]~~(E) Damascus Town Center;

~~[(D)]~~(F) Germantown Town Center;

(G) Glenmont Sector Plan Area;

(H) Grosvenor-Strathmore Sector Plan Area;

[(E)](I) Kensington Town Center;

(J) Langley Crossroads;

(K) Lyttons ville Purple Line Station;

(L) Montgomery Hills;

[(F)](M) Olney Town Center; [[and]]

(N) Piney Branch;

(O) Shady Grove Sector Plan Area

(P) Twinbrook Sector Plan Area

(Q) Westbard;

(R) White Flint 2 Sector Plan area east of the CSX Metropolitan Branch; and

[(G)](S) Woodside Purple Line Station.

(3) A country area is located within the designated Rural area.

(4) An industrial area is an area with predominantly industrial zoning.

[(4)](5) A suburban area is an area with predominantly residential zoning that is not already a downtown, town center, industrial, or country area.

[(5)](6) These areas may be created, eliminated or modified by functional plans, master plans, or sector plans.

[(6)](7) Roads are included in the area within which they are located. Roads bordering on two areas will be assigned to the area with the greater development intensity.

(b) Each road must be assigned a County classification and a federal classification. Federal classifications are assigned in accordance with the most recent edition of the Federal Highway Administration Highway Functional Classification typologies.

(c) County classifications are:

- (1) A Freeway is a road meant exclusively for through movement of vehicles at a high speed. Access must be limited to grade-separated interchanges.
- (2) A Controlled Major Highway is a road meant exclusively for through movement of vehicles at a lower speed than a Freeway. Access must be limited to grade-separated interchanges or at-grade intersections with public roads.
- (3) A Parkway is a road meant exclusively for through movement of vehicles at a moderate speed. Access must be limited to grade-separated interchanges and at-grade intersections. Any truck with more than four wheels must not use a Parkway, except in an emergency or if the truck is engaged in Parkway maintenance.
- (4) A Downtown Boulevard is a road in a downtown area that serves a high volume of vehicles, pedestrians, bicyclists, or transit users. Access to abutting properties is allowed but not preferable. These roads were previously classified as major highways and arterials.
- (5) A Downtown Street is a road in a downtown area that serves a large share of pedestrians, bicyclists, or transit users. This road type is meant for circulation in commercial and mixed-use zones. Access to abutting properties is expected. These roads were previously classified as business streets.
- (6) A Boulevard is a road that typically connects employment and entertainment centers, civic, commercial, and institutional land uses, and may also provide cross-country and regional connections. Pedestrian, bicycle, and transit users are to be accommodated. Some access to abutting properties is expected.

828 These roads were previously classified as major highways and
 829 arterials.

830 (7) A Town Center Boulevard is a road in a town center area that
 831 serves a moderate to high volume of vehicles, pedestrians,
 832 bicyclists, or transit users. Access to abutting properties is allowed
 833 but generally not preferable. These roads were previously
 834 classified as major highways and arterials.

835 (8) A Town Center Street is a road in a town center area that serves a
 836 larger share of pedestrians, bicyclists, or transit users. This road
 837 type is meant for circulation in commercial and mixed-use zones.
 838 Access to abutting properties is expected. These roads were
 839 previously classified as business streets.

840 (9) An Area Connector is a two-lane street in a suburban area that
 841 typically connects employment and entertainment centers, civic,
 842 commercial, and institutional land uses, and may also provide
 843 limited regional connectivity and serve primary circulation in
 844 residential zones. These roads were previously classified as minor
 845 arterials.

846 (10) A Neighborhood Connector is a street in a suburban area providing
 847 primary circulation in residential zones and may also enable traffic
 848 to pass through a neighborhood. These streets were previously
 849 classified as primary residential streets.

850 (11) A Neighborhood Street is a street that provides internal circulation
 851 within suburban areas. Access to abutting properties is expected.
 852 These streets were previously classified as secondary and tertiary
 853 residential streets.

- (12) A Neighborhood Yield Street is a Neighborhood Street that is designed as a bi-directional one-lane street.
- (13) An Industrial Street is a road meant for circulation in areas consisting predominantly of industrial zones.
- (14) A Country Connector is a road in a country area that was previously classified as major highways, arterials, or country arterials.
- (15) A Country Road is a low intensity road in a country area.
- (16) An Alley is a right-of-way intended to provide secondary access to the rear or side of lots or buildings and not intended for transporting through traffic. An alley may be used to provide primary vehicular access if the Planning Board and the Director of Transportation concur that the dimensions and specifications proposed in a project, preliminary subdivision, or site plan would provide adequate primary vehicular access. An Alley is a Residential Alley if serving only residential zones, or a Commercial Alley if serving any non-residential zones.
- (17) A Rustic Road or an Exceptional Rustic Road means a road classified as such under Article 8.
- (18) A Residential Shared Street or Commercial Shared Street is a street designed to create a shared traffic environment where pedestrians, bicyclists, and other non-motorized traffic may comfortably occupy the same space as motor vehicle traffic. These streets prioritize pedestrian and bicycle movement by slowing vehicular speeds and communicating clearly through design features that motorists must yield to all other users. A Shared Street is a Residential Shared Street if serving only residential

881 zones, or a Commercial Shared Street is serving any non-
 882 residential zones.

883 (d) County classifications are assigned as follows until the roads are re-
 884 designated by functional plans, master plans, or sector plans. The number
 885 of lanes is defined as the number of through lanes for motor vehicles and
 886 is tallied based on the number of planned lanes for that road, or the
 887 number of existing lanes if not specified by any functional plan, master
 888 plan, or sector plan.

889 (1) Freeways retain their classifications as Freeways.

890 (2) Controlled Major Highways retain their classifications as
 891 Controlled Major Highways.

892 (3) Parkways retain their classifications as Parkways.

893 (4) Major highways:

894 (A) Major highways located in a downtown area are classified
 895 as Downtown Boulevards.

896 (B) Major Highways located in a town center area are classified
 897 as Town Center Boulevards.

898 (C) Two-lane Major Highways located in a country area are
 899 classified as Country Connectors.

900 (D) Two-lane Major Highways located in a suburban area are
 901 classified as Area Connectors.

902 (E) All Major Highways not addressed by (A) through (D) are
 903 classified as Boulevards.

904 (5) Arterials:

905 (A) Arterials with four or more lanes located in a downtown area
 906 are classified as Downtown Boulevards.

- (B) Arterials with fewer than four lanes located in a downtown area are classified as Downtown Streets.
- (C) Arterials with more than two lanes located in a town center area are classified as Town Center Boulevards.
- (D) Arterials with two lanes located in a town center area are classified as Town Center Streets.
- (E) Arterials located within a country area are classified as Country Connectors.
- (F) Two-lane Arterials located in a suburban area are classified as Area Connectors.
- (G) All Arterials not addressed by (A) through (F) are classified as Boulevards.

(6) Minor Arterials:

- (A) Minor Arterials with four or more lanes located in a downtown area are classified as Downtown Boulevards.
- (B) Minor Arterials with fewer than four lanes located in a downtown area are classified as Downtown Streets.
- (C) Minor Arterials with more than two lanes located in a town center area are classified as Town Center Boulevards.
- (D) Minor Arterials with two lanes located in a town center area are classified as Town Center Streets.
- (E) Minor Arterials located within a country area are classified as Country Connectors.
- (F) All Minor Arterials not addressed by (A) through (E) are classified as Area Connectors.

(7) Business District Streets:

- 933 (A) Business District Streets with four or more lanes located in
 934 a downtown area are classified as Downtown Boulevards.
- 935 (B) Business District Streets with fewer than four lanes located
 936 in a downtown area are classified as Downtown Streets.
- 937 (C) Business District Streets with more than two lanes that are
 938 not located in a downtown area are classified as Town
 939 Center Boulevards.
- 940 (D) Business District Streets with two lanes that are not located
 941 in a downtown area are classified as Town Center Streets.
- 942 (8) Industrial Streets retain their classification as Industrial Streets.
- 943 (9) Primary Residential Streets:
- 944 (A) Primary Residential Streets located in a country area are
 945 classified as Country [[Connectors]] Roads.
- 946 (B) Primary Residential Streets not located in a country area are
 947 classified as Neighborhood Connectors.
- 948 (10) Secondary Residential Streets are classified as Neighborhood
 949 Streets.
- 950 (11) Tertiary Residential Streets are classified as Neighborhood Streets.
- 951 (12) Country Arterials are classified as Country Connectors.
- 952 (13) Country Roads retain their classifications as Country Roads.
- 953 (14) Shared Streets with entirely residential zoning along its frontage
 954 are classified as a Residential Shared Street.
- 955 (15) Shared Streets with any non-residential zoning along its frontage
 956 are classified as a Commercial Shared Street.
- 957 (16) Alleys retain their classifications as Alleys.
- 958 (17) Rustic Roads retain their classifications as Rustic Roads.

(18) Exceptional Rustic Roads retain their classifications as Exceptional Rustic Roads.

[(19) Transitions along continuous roadways:

(A) If a Downtown road type changes classification to or from a non-Downtown road type: the Downtown classification will extend to the next master planned cross-street, not to exceed 500 feet beyond the limits of the downtown area.

(B) If a Town Center road type changes classification to or from a non-Downtown and non-Town Center road type: the Town Center classification will extend to the next master planned cross-street, not to exceed 500 feet beyond the limits of the town center area.

(C) If a Downtown Boulevard, Town Center Boulevard, or Boulevard change classification to or from any other type: the Downtown Boulevard, Town Center Boulevard, or Boulevard classification will extend to the next master planned cross-street, not to exceed 500 feet beyond the initial transition point.

(D) The transition areas noted in (A) through (C) are not additive; if the roadway meets multiple transition criteria the transition area will remain to the next master planned cross-street, not to exceed 500 feet from the nearest of either the limits of the downtown or town center area, or the initial transition point.]]

[(20)](19) If, after consultation with the staff of the Planning Board, the Department of Transportation determines that the criteria under (d)(1) through [(d)(19)] (d)(18) are not

suitable for a particular road, the Department may determine that a more context-sensitive classification or transition length applies in lieu of the default classifications.

Sec. 49-32. Design standards for types of roads.

* * *

[(c) In this Article and the standards adopted under it:

- (1) an ‘urban’ road is a road segment in or abutting a Metro Station Policy Area, Town Center Policy Area, or other urban area expressly identified in a Council resolution;
- (2) a ‘rural’ road is a road segment located in a rural policy area as defined in the County Growth Policy; and
- (3) a ‘suburban’ road is a road segment located elsewhere in the County.]

[(d)](c) The minimum right-of-way for a road may be specified in the most recent applicable functional plan, master plan, or sector plan for the area where the road is located. Minimum rights-of-way generally do not include continuous features along a typical section, and account for parking, drainage and stormwater management, spot conditions such as auxiliary lanes or transit stations, or infrastructure at intersections such as signal equipment and protected intersections. If a minimum right-of-way for a particular road is not specified [n] in a functional plan, master plan, or sector plan, the minimum right-of-way must be:

- [(1) 80 feet for a Business District Street or Industrial Street;
- (2) 100 feet for a Primary Residential Street with a median;
- (3) 70 feet for a Primary Residential Street without a median;
- (4) 60 feet for a Principal Secondary Residential Street or Secondary Residential Street;

- 1013 (5) 50 feet for a standard Tertiary Residential Street;
- 1014 (6) 27 feet, 4 inches for a reduced-width Tertiary Residential Street
- 1015 with two-way traffic;
- 1016 (7) 21 feet, 4 inches for a reduced-width Tertiary Residential Street
- 1017 with one-way traffic; and
- 1018 (8) 20 feet for an Alley.]
- 1019 (1) 80 feet for a Downtown Street;
- 1020 (2) 80 feet for a Town Center Street;
- 1021 (3) 70 feet for an Area Connector;
- 1022 (4) 70 feet for a Neighborhood Connector;
- 1023 (5) 60 feet for a Neighborhood Street;
- 1024 (6) 50 feet for a Neighborhood Yield Street;
- 1025 (7) 80 feet for an Industrial Street;
- 1026 (8) 74 feet for a Country Connector;
- 1027 (9) 70 feet for a Country Road;
- 1028 (10) 20 feet for an Alley serving any non-residential zoning;
- 1029 (11) 16 feet for an Alley serving only residential zoning;
- 1030 (12) 40 feet for a Commercial Shared Street;
- 1031 (13) 40 feet for a Residential Shared Street.

1032 [(e)](d) Grass shoulders must be load bearing at any specific location designated
 1033 by the Director of Permitting Services after consulting the Fire Chief and
 1034 Director of Transportation.

1035 [(f)](e) Unless otherwise specified in this Article, each grading, drainage
 1036 structure, paving, shoulder, landscaping, and traffic control must be
 1037 installed as provided in the latest applicable County design standards,
 1038 storm drain criteria, and specification. Unless extenuating circumstances
 1039 would result in a safety hazard, when a road is resurfaced the road must

also be restriped to meet any applicable lane width standard and may include bike lanes where appropriate.

[(g) Each through travel or turning lane on an urban road must be no wider than 10 feet, except that a single travel lane adjacent to a parking lane must be no wider than 11 feet and a through travel or turning lane abutting an outside curb must be no wider than 11 feet, including the gutter pan. Each parking lane on an urban road must be no wider than 8 feet, including the gutter pan. The standards in this subsection do not apply if, for a road improvement required as a result of approving a subdivision or site plan, the Executive or the Executive's designee concludes that applying a specific standard at a specific site would significantly impair public safety.]

[(h)](f) The curb radius at the corner of each intersection ~~[[of two]]~~ [urban] ~~[[roads in Downtown or Town Center areas must not exceed]]~~ is 15 feet. ~~[[The curb radius at the corner of intersections where all intersecting streets are Area Connectors, Neighborhood Connectors, Neighborhood Streets, or Neighborhood Yield Streets must not exceed 10 feet.]]~~ Exceptions to these requirements may be allowed as follows [except where]:

[(1) there is only one receiving lane;]

[(2)](1) A minimum 10-foot corner radius is required at intersections where all intersecting streets are Area Connectors, Neighborhood Connectors, Neighborhood Streets, or Neighborhood Yield Streets;

(2) A larger corner radius is acceptable where there is a curb extension [is located]; [or]

~~[(2)]~~(3) ~~[[a default]]~~ A 25-foot radius is ~~[[required]]~~ acceptable where at least one street is an Industrial Street;

~~[(3)](4)~~ ~~[[a]]~~ A larger corner radius is needed to serve the design vehicle and control vehicle with consideration of the allowable encroachment defined by the Complete Streets Design regulation;
or

~~[(3)]~~~~[(4)]~~~~[(5)]~~ [for] ~~[[a]]~~ A road improvement required [as a result of approving] by a subdivision or site plan [, the Executive or the Executive's designee concludes that applying this standard at a specific site] would significantly impair public safety.

~~[(i)]~~~~[(g)]~~ Each pedestrian refuge must be at least 6 feet wide. A pedestrian refuge must be located at each intersection approach along [on] a divided highway with 6 or more through travel lanes.

~~[(j)]~~~~[(h)]~~ Unless otherwise specified in a functional plan, master plan, sector plan, or the approved capital improvements program, the maximum target speed for a road [in an urban area is 25 mph.] shall be:

- ~~(1)~~ 25 mph for a Downtown Boulevard;
- ~~(2)~~ 20 mph for a Downtown Street;
- ~~(3)~~ 35 mph for a Boulevard, except 25 MPH if in an Urban Area;
- ~~(4)~~ 30 mph for a Town Center Boulevard, except 25 MPH if in an Urban Area;
- ~~(5)~~ 25 mph for a Town Center Street;
- ~~(6)~~ 25 mph for an Area Connector;
- ~~(7)~~ ~~[[25]]~~ 20 mph for a Neighborhood Connector;
- ~~(8)~~ 20 mph for a Neighborhood Street;
- ~~(9)~~ 20 mph for a Neighborhood Yield Street;
- ~~(10)~~ 25 mph for an Industrial Street;
- ~~(11)~~ 40 mph for a Country Connector;
- ~~(12)~~ between 20 to 35 mph for a Country Road;

(13) between 45 to 55 mph for a Major Highway;

(14) case-by-case determinations for Alleys, and Shared Streets[,]; and

(15) 30 mph for Rustic Roads, and Exceptional Rustic Roads[[:]].

Sec. 49-33. Road construction and reconstruction requirements.

* * *

[(c) Cul-de-sacs or turnarounds are required if the paving of a road ends other than at a paved road intersection. Each turnaround or cul-de-sac must be graded, paved, and include appropriate drainage structures and temporary curbs, if the Department of Permitting Services so requires.]

[(d)](c) If a preliminary drainage study indicates that a minimum right-of-way or storm drain easement width required in this Article is inadequate to properly drain a particular road, the Department of Permitting Services may require any additional right-of-way or storm drain easement necessary for proper drainage. The Department must notify the permittee of any added right-of-way before a dedication plat is approved by the Planning Board (or equivalent body in any municipality with land use authority) and recorded in the County land records, and must notify the permittee of any added easement when it approves a right-of-way permit.

(1) If a lot or lots front on a public road, the permittee must provide sufficient drainage easements to allow for the safe conveyance of stormwater from the public right-of-way to either an approved outfall or an approved public structure.

[(e)](d) (1) If a lot or lots front on a public road, the permittee must [install] construct sidewalks, master-planned bikeways, ramps, curbs, and gutters, except [any sidewalk]:

- 1119 (A) any sidewalk or sidepath in front of a lot that is larger than
 1120 25,000 square feet for a single-family detached dwelling in
 1121 a rural [zone] area;
- 1122 (B) any sidewalk or sidepath on any roadway that is classified
 1123 as [exceptional rustic, rustic, country arterial, or country
 1124 road] rustic or exceptional rustic;
- 1125 (C) any sidewalk or sidepath on a [tertiary residential]
 1126 neighborhood street or neighborhood yield street serving
 1127 fewer than 75 dwelling units], or in an environmentally
 1128 sensitive area with limits on the amount of impervious
 1129 surface allowed,] if [in either case] the Planning Board and
 1130 Department of Transportation [finds] find that a sidewalk is
 1131 not expected to be [unnecessary] necessary for pedestrian
 1132 movement; [or]
- 1133 (D) any sidewalk if the site is located in an environmentally
 1134 sensitive area with limits on the amount of impervious
 1135 surface allowed if the Department of Transportation find
 1136 that a sidewalk is not expected to be necessary for pedestrian
 1137 movement; or
- 1138 [(D)](E) any sidewalk or sidepath on a [secondary or tertiary
 1139 residential] neighborhood street, neighborhood yield street,
 1140 or service drive where the Department of Permitting
 1141 Services finds that a sidewalk or sidepath is infeasible, will
 1142 not connect [potentially] to other sidewalk segments within
 1143 the foreseeable future, or qualifies for fee payments in lieu
 1144 of construction under Section 49-40[.]; or

(F) any sidewalk or master-planned bikeway where the Planning Board establishes criteria to accept a payment in lieu of a transportation improvement.

(2) However, the Planning Board may require the applicant to install sidewalks, bikeways, ramps, curbs, and gutters if the Board finds, as a condition of approval of a preliminary subdivision plan or site plan, that sidewalks, [bikeway connections] bikeways, ramps, curbs, and gutters at that location are necessary to allow access:

(A) to [a] an existing or planned sidewalk or bikeway;

(B) to a bus or other public transit stop;

(C) to an amenity or public facility that will be used by occupants of the site or subdivision; or

(D) by persons with disabilities.

Before the Planning Board approves any requirement under this paragraph, the Board must give the Departments of Permitting Services and Transportation a reasonable opportunity to comment on the proposed requirement.

[(f)](e) The construction of half roads or any road of less than the width required by this Article is prohibited except as permitted in Section 49-40. [However, construction] Construction of such portions of roads is permitted if the dedicated portion of the road established by a dedication plat and recorded in the County land records before August 15, 1950 is wide enough to permit the grading and construction of paving [18] 20 feet wide with curbs, gutters, and sidewalks required for the type of road.

[(g)](f) A road must not be constructed unless it connects with an existing public road at one end. A road must not be constructed short of an intersection unless it connects with an existing public road or the dedication of the

right-of-way ends short of an intersection. If any road construction ends at or goes through an intersection, the intersection must be completed. If a road ends at other than an intersection or a point of connection with an existing road, [turnarounds or cul-de-sacs] a turnaround such as a cul-de-sac must be provided. Each turnaround must be graded, paved, and include appropriate drainage structures and temporary curbs if required by the Department of Permitting Services.

~~[(h)]~~(g) If drainage structures are required for any particular class of road, the Planning Board must require the applicant to install or construct drainage structures that the Board finds are necessary or appropriate, after reviewing a preliminary drainage study approved by the Department of Transportation, in accordance with applicable design standards and specifications.

~~[(i)]~~(h) Driveway entrances to individual lots must be required if the Planning Board finds that off-street parking facilities are necessary and practicable.

~~[(j)]~~(i) *Street trees.*

(1) On public road rights-of-way, street trees must be planted in accordance with design standards of the Department of Transportation. On private road rights-of-way and easements, street trees must be planted in accordance with the technical manual adopted by the Planning Board under Chapter 22A.

(2) The Department of Permitting Services, the Department of Transportation, and the staff of the Planning Board should coordinate the specific location and species of street tree plantings to promote compatibility of the plantings with road function and safety, signage, maintenance, appropriate visual buffering,

utilities, other public or private improvements, and aesthetic considerations related to streetscape design.

~~[(k)]~~(j) *Ground cover.*

(1) A property owner may plant and maintain ground cover in a public right-of-way adjacent to the owner's property if the owner:

(A) complies with [guidelines issued under paragraph (3)] County regulations;

(B) maintains the ground cover to prevent any obstruction of the public right-of-way prohibited under Section 49-10; and

(C) holds the County harmless for any damage to the ground cover, and any damage or injury caused by the ground cover.

However, ground cover in a public right-of-way adjacent to the owner's property must not be planted where it will reduce public safety or impede travel.

(2) In this subsection, property owner or owner includes each person with a legal interest in the property and any successor to that person's interest.

~~[(3)]~~ The Director of Transportation, after consulting the Directors of Environmental Protection and Permitting Services, must issue guidelines that allow and encourage a property owner to place and maintain ground cover in the public right-of-way adjacent to the owner's property. The guidelines must encourage use of ground cover that is environmentally sensitive and promotes conservation of natural resources and more sustainable landscaping, including plant species that:

- 1224 (A) require reduced or no mowing, fertilizing, or other
 1225 maintenance;
 1226 (B) are drought tolerant and require little watering at any time;
 1227 (C) do not inhibit growth of nearby trees; and
 1228 (D) include non-turf grasses.]
 1229 (3) The County Executive must adopt Method (3) regulations that
 1230 define the design and maintenance standards applicable to this
 1231 Section.
 1232 (4) Except as provided in paragraph (1), this subsection does not
 1233 impair the County's right to enter, maintain, occupy, or otherwise
 1234 control any public right-of-way for any purpose.
 1235 [(l)](k) *Curbs and gutters.*

1236 * * *

1237 **Sec. 49-34. Construction by County.**

- 1238 (a) The County must not construct any road unless:
 1239 (1) the County has previously acquired the right-of-way for the road,
 1240 or the right-of-way has been dedicated to public use by appropriate
 1241 recording in the County land records; and
 1242 (2) the cost of the road will be charged against the benefitted property
 1243 in according with Sections 49-51 to 49-62 and subsection [(b)] (c)
 1244 of this Section.
 1245 * * *
 1246 (e) The County Executive may authorize the construction of [shared use
 1247 paths] sidepaths or sidewalks to serve general community needs.
 1248 Whenever a sidewalk or [shared use path] sidepath is built in a right-of-
 1249 way where there is no pavement or other road construction, building the
 1250 sidewalk or [shared use path] sidepath does not mean that the County is

responsible for maintaining any part of the right-of-way except the sidewalk or [shared use path] sidepath.

Sec. 49-35. Right-of-way permit.

- (a) (1) A [person must not construct any road, sidewalk, shared use path, curb and gutter, driveway, or drainage structure; begin any such construction (including clearing, grading, and tree cutting); or perform any tree work on any roadside tree (including removing a stump on a County right-of-way), without a permit] permit is required from the Director of Permitting Services for any work within the public right-of-way. Any permit issued for roadside tree work must comply with Section 49-36A. In this Article, “roadside tree” means any plant that has a woody stem or trunk which grows all, or in part, in the right-of-way of any County public road.
- (2) In this Section and Sections 49-36, 49-36A, and 49-37, unless otherwise specified, Director refers to the Director of Permitting Services and Department refers to the Department of Permitting Services.
- (3) [A person must apply for a permit on] Permit applicants must use forms prescribed by the Director, submit detailed plans and specifications, and include locations and record plats approved by the Department and the Planning Board.
- (4) If the proposed activity requires a sediment control permit, the Department must issue the permit before any activity occurs under a permit issued under this subsection. The State Highway Administration must approve any action under its jurisdiction before the Director may approve the permit.

- 1277 (5) As a requirement to issue a permit under this Section, the Director
 1278 may require the applicant to designate and bond a haul route for
 1279 construction materials, as described in Section 49-8.
- 1280 (b) The Director must collect a fee, set by Method 3 regulation, for each
 1281 right-of-way permit application. However, the Director must not collect
 1282 a fee for any permit to:
- 1283 (1) remove or prune a tree that endangers a person or property;
 1284 (2) remove a stump in the right-of-way; [or]
 1285 (3) plant a tree; or
 1286 [(3)][4] install a sign identifying a geographic area in the right-of-way if:
- 1287 (A) the primary applicant is an unincorporated or non-profit
 1288 civic or homeowners' organization that is either:
- 1289 (i) listed on the Planning Board's most recent list of
 1290 civic and homeowners associations; or
 1291 (ii) exempt from federal income taxes and shows that its
 1292 annual revenue during its most recent fiscal year did
 1293 not exceed an amount set by a regulation;
- 1294 (B) in a homeowners' association, maintenance responsibility
 1295 of all common areas has been transferred from the
 1296 developer; and
- 1297 (C) the proposed sign would be smaller than a maximum size
 1298 set by regulation.
- 1299 (c) Before an applicant begins any road, sidewalk, sidepath, bikeway, curb
 1300 and gutter, driveway, retaining wall, steps, or drainage project, on a road
 1301 or within the boundaries of a dedication to public use, the applicant for a
 1302 permit to undertake any such project must pay to the County an inspection

and engineering fee set by the County Executive by [method] Method (3) regulation.

(d) If any such project is solely a grading project, the applicant must pay an inspection and engineering fee to the County if Department staff does the engineering work on the project and an inspection fee if the applicant submits the engineering work.

(e) Any violation of this Section is a Class A violation.

(f) The Director must refund half the fees required by this Section to the applicant if a permit is rejected or withdrawn before construction begins. If an applicant proposes to undertake a project using materials, standards, or specifications superior to those required under this Article, the fees charged must be computed on the estimated cost of the project as if it met those requirements.

(g) A person, including any utility corporation, must not cut [a road] within the right-of-way to install, replace, or maintain or connect any underground gas, electric power, or telephone line, or any other underground infrastructure, without a permit from the Director. The Director must supervise all backfilling and repaving of utility trenches to assure that the permittee complies with all applicable specifications. The permittee must restore the right-of-way to its prior condition.

* * *

Sec. 49-36. Permit conditions and procedures.

Each permit issued under Section 49-35 must be subject to the following conditions[, which the permit must specify]:

* * *

Sec. 49-36A. Roadside tree work.

* * *

(b) *Applicability; exceptions.*

(1) A person [(including a government agency)] may receive a right-of-way permit to perform tree work on a roadside tree if the person:

* * *

Sec. 49-37. Street and road bonds.

* * *

(d) (1) If the Director finds a violation of an applicable law or regulation, or a default in the performance of any term or condition of the permit or accepted security, the Director must give written notice of the violation or default to the principal and to the surety of the accepted security. The notice must specify the work to be done, the estimated cost of the work, and the period of time the Director finds reasonably necessary to complete the work.

(2) If a cash bond has been posted, the Director must give notice of default to the principal; and if compliance is not [achieved] achieved within the time specified, the Director may, without delay and without further notice or proceedings, use the cash deposited, or any portion of the deposit, to cause the required work to be performed by contract or otherwise in the Director's discretion. After any default in the performance of any term or condition of the permit or accepted security, the County, the surety, and any person employed or engaged on their behalf may enter the site to complete the required work.

* * *

Sec. 49-38. Acceptance of roads.

* * *

- (b) Any action by the County to accept a road must be in writing and fully identify the portion accepted. Any accepted road must conform to [the standards and specifications of] this Chapter and all other applicable laws in force at the time of acceptance.

* * *

Sec. 49-39. Pre-acceptance review by County.

* * *

- (b) After completion and final inspection of a road, the County must either accept the road, if the Director of Permitting Services finds that its construction has met all requirements of this Article, and release the bond, or the Director must reject the road by written notice to the permittee and surety, where an acceptable security was posted, specifying the reasons for rejection by reference to the particular requirement which has been violated, and allow a specified reasonable time for the permittee or surety to comply with all applicable [requiements] requirements.

* * *

Sec. 49-40. Waivers of requirements of Article.

- (a) The Director of Permitting Services may waive any requirement of this Article for sidewalks, bikeways, rights-of-way widths, grade percentages, full-width grading, and the construction of both roadways of a dual road, or any combination of them, as allowed in this Section, for any road constructed by the County or a permittee.
- (b) The Director must apply the following standards for granting or denying waivers:
- (1) *Sidewalks and Sidepaths.*

(A) *Waiver authority.* The Director, after consultation with the staff of the Planning Board, may waive any requirement, subject to (B), to install sidewalks or sidepaths if:

- (i) the lots abutting the right-of-way are unimproved;
- (ii) the street was lawfully graded before August 15, 1950, and the terrain is so steep and uneven that grading for sidewalks or sidepaths cannot be done except at excessive cost, or
- (iii) houses or buildings abutting the right-of-way which were constructed before August 15, 1950, are so situated, and the property upon which those houses or buildings are located is so graded, that the construction of sidewalks or sidepaths is undesirable.

(B) *Waivers not allowed.* [Notwithstanding the preceding subparagraph, the] The Director [may] must deny a waiver if:

- (i) the street involved is [a Primary Residential Street] an Area Connector, Neighborhood Connector, Industrial Street, [Business District Street, Minor Arterial or Arterial, Major Highway] Downtown Street, Town Center Street, Downtown Boulevard, Town Center Boulevard, Boulevard, or Controlled Major Highway; or
- (ii) the required sidewalks or bikeways are necessary or desirable to provide safe access for pedestrians and/or bicyclists.

(C) *Waiver and fee payment.* As an alternative to building a sidewalk or bikeway on an existing or proposed street, the Director ~~[[may allow]]~~ must require an applicant to pay a fee if the applicant shows that building a sidewalk or bikeway as required would cause extreme hardship or if the Director finds that it would cause significant environmental impact. The sidewalk or bikeway that would be waived must not connect to another existing or proposed sidewalk, [shared use path] bikeway, bus stop, school, or other public [faciity] facility. The fee must equal the full cost to build the sidewalk or bikeway, including the design and supervision costs. This fee must be paid, any necessary right-of-way must be dedicated, and any necessary perpetual easement must be recorded before the Director issues any road construction permit for the proposed public street. The revenue from these fees must be assigned to a capital account for sidewalk or bikeway construction and may be spent as appropriated by the County Council.

* * *

(4) *Full-width grading.* The Director may waive or reduce any requirement for full-width grading if:

* * *

(C) for a [Secondary Residential or Tertiary Residential] Neighborhood Street or Neighborhood Yield Street, the applicant proposes to extend an existing paved road which ends short of an intersection, the right-of-way containing the

existing paved road is not graded to its full width and the
waiver does not apply beyond the intersection.

* * *

ARTICLE 4. ACQUISITION OF LAND.

Sec. 49-45. Authority to acquire land for transportation purposes.

The County may buy land which is needed in connection with:

- (a) the opening of any new road, [shared use path] bikeway, or
sidewalk,

* * *

Sec. 49-50. Optional method of condemnation of land for streets or roads.

As authorized by Section 40A of Article III of the Maryland Constitution, the
County may acquire any land or interest in land required for a right-of-way for
a County road or street by using the following procedure:

* * *

- (b) (1) Promptly after being appointed, the broker or appraiser must
estimate the fair market value of the property or interest and submit
a written report to the County.
- (2) The County then may be petition, naming the owner and all
persons of record whose interest in the property would be taken,
pay to the Circuit Court the amount estimated by the broker or
appraiser to be the fair market value of the property, and record a
copy of the resolution of taking in the County land records. A copy
of the resolution must be attached to the petition and filed with the
Circuit Court. A copy of the petition and resolution must be
[served on] sent to each person named in the petition.

* * *

ARTICLE 5. COUNTY ROADS – AUTHORITY AND FUNDING.

Sec. 49-51. [Definitions] Reserved.

[As used in this Article:

Construction means construction or reconstruction (but not maintenance), and includes grading, installation of drainage structures, and paving.

Road: includes any road, street, highway, avenue, lane, alley, bridge, shared use path, sidewalk, viaduct, and any related storm drain and stormwater management facility.]

* * *

Sec. 49-53. Public hearing; notice.

* * *

(e) The Director need not hold a hearing under subsection (d) before a sidewalk or [shared use path] sidepath is constructed if:

* * *

Sec. 49-57. Roads partly in unincorporated area and partly in city or town.

(a) *Building roads.*

(1) If a road, bridge, storm drain, sidewalk, [shared use path] sidepath, transitway, or other transportation facility is located partly in the unincorporated area of the [county] County and partly in a municipality or special taxing district that is authorized by law to build or maintain that part of the facility that is located in the municipality, either the County or the municipality or special taxing district may improve the entire facility according to applicable County laws or any law or regulation that applies in the municipality or special taxing district, respectively, as if the facility were completely located in the unincorporated area of the [county] County or in the municipality or special taxing district.

* * *

(3) The County may build or improve a road, bridge, storm drain, sidewalk, [shared use path] sidepath, bikeway, transitway, or other transportation facility which it is authorized by law to construct and maintain, including when the facility is located partly or entirely in a municipality or special taxing district. Before taking any action under this paragraph, the Executive must consult each affected municipality.

* * *

ARTICLE 6. ABANDONMENT AND CLOSING OF RIGHTS-OF-WAY.

Sec. 49-62. Abandonment authority; scope of Article; procedures.

(a) *Authority.* The County Council, by adopting a resolution, may close to public use or abandon the County's right to use any right-of-way. As used in this Article, *right-of-way* means any road, [street, alley, crosswalk, pedestrian walkway, shared use path] sidewalk, bikeway, crosswalk, water main, sanitary sewer, storm sewer, or storm drainage right-of-way used at any time by the public, including use by pedestrians and bicyclists. This Article applies to all rights-of-way except as provided in subsection (j) and State road rights-of-way, and may apply to a State road right-of-way if the appropriate State agency expressly consents. Before the Council adopts a resolution under this Article, the procedures in this Article must be followed.

* * *

(h) *Agencies.* The government agencies and other parties from which the Executive must solicit a response are:

(1) the Department of Transportation;

(2) the Department of Permitting Services;

[(2)](3) the Maryland-National Capital Park and Planning Commission;

~~[(3)]~~(4) the Washington Suburban Sanitary Commission, if any part of the right-of-way is located in the Washington Suburban Sanitary District;

~~[(4)]~~(5) each public utility authorized by the Public Service Commission to operate in the area and which has any overhead or underground facilities in the vicinity;

~~[(5)]~~(6) the governing body of each incorporated municipality or special taxing district in which any of the right-of-way is located;

~~[(6)]~~(7) [The] the Police Department;

~~[(7)]~~(8) the County Fire and Rescue Service; and

~~[(8)]~~(9) [Any] any grantee of a franchise under Article 2, if the franchise authorizes the grantee to install or use any facility in, over, or under the affected right-of-way.

- (i) *Temporary closure.* This Article does not apply to any temporary closure required by a construction traffic control plan if the closure does not last longer than 12 months. If special circumstances require that a temporary closure last longer than 12 months, the Director of Transportation must apply to the Council for approval to extend the closure [for a specified period that does not exceed 24 months]. The Council, by resolution, may approve an extended temporary closure under this subsection without following the procedures in this Article.

* * *

ARTICLE 8. RUSTIC ROADS PROGRAM.

* * *

Sec. 49-77. Definitions.

In this Article, the following terms have the meanings indicated:

Committee means the Rustic Roads Advisory Committee.

Exceptional rustic road means an existing public road or road segment which is so classified under Section 49-78.

[*Master Plan of Highways* means the Master Plan of Highways Within Montgomery County, an amendment to the General Plan for the Physical Development of the Maryland-Washington Regional District.]

Public utility means any private company or public agency that is regulated as a public utility under state law, or otherwise provides water, sewer, electric, gas, telephone, or cable service (as defined in Chapter 8A) in the County.

Rustic road means an existing public road or road segment which is so classified under Section 49-78.

Sec. 49-78. Rustic road classification and reclassification.

(a) *Classification.* The County Council may classify, reclassify, or revoke the classification of an existing public road or road segment as a rustic road or an exceptional rustic road by approving an amendment to the [Master Plan of Highways] functional plan and the relevant area [Master Plan] master plan.

* * *

(b) *Criteria for rustic road.* Before classifying a road as rustic, the Council must find that an existing public road or road segment:

* * *

(5) the history of vehicle and pedestrian ~~[[accidents]]~~ crashes on the road in its current configuration does not suggest unsafe conditions.

* * *

Sec. 49-80. Rustic Roads Advisory Committee.

* * *

1567 (f) *Advocacy.* The [[Commission]] Committee must not engage in any
 1568 advocacy activity at the State or federal levels unless that activity is
 1569 approved by the Office of Intergovernmental Relations.

1570 * * *

Zoning Text Amendment No.: 22-10
Concerning: Streets and Roads
Draft No. & Date: 2 – 10/19/2022
Introduced: July 26, 2022
Public Hearing: September 20, 2022
Adopted:
Effective:
Ordinance No.:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Council President at the Request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- replace any reference to road or street types with the updated typology from Chapter 49;
- define Residential Streets; and
- generally amend provisions related to streets and roads.

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 1.4	“DEFINED TERMS”
Section 1.4.2	“Specific Terms and Phrases Defined
DIVISION 2.2	“ZONING MAP”
Section 2.2.4	“Zoning and Development within Rights-of-Way
DIVISION 3.2	“AGRICULTURAL USES
Section 3.3.2	“Agricultural Processing”
Section 3.2.4	“Equestrian Facility”
Section 3.2.7	“Nursery”
Section 3.2.8	“Slaughterhouse”
Section 3.2.10	“Accessory Agricultural Uses”
Section 3.2.11	“Temporary Agricultural Uses
DIVISION 3.4	“CIVIC AND INSTITUTIONAL USES”
Section 3.4.2	“Charitable, Philanthropic Institutions”
Section 3.4.5	“Educational Institutions (Private)”
DIVISION 3.5	“COMMERCIAL USES”
Section 3.5.6	“Lodging”
Section 3.5.7	“Medical and Dental”
Section 3.5.8	“Office and Professional”

Section 3.5.9	“Parking”
Section 3.5.10	“Recreation and Entertainment”
Section 3.5.12	“Vehicle/Equipment Sales and Rental”
Section 3.5.13	“Vehicle Service”
<u>DIVISION 4.5</u>	<u>“Commercial/Residential Zones”</u>
<u>Section 4.5.4.</u>	<u>“Optional Method Development”</u>
DIVISION 4.6	“EMPLOYMENT ZONES”
Section 4.6.3	“Standard Method Development”
<u>Section 4.6.4</u>	<u>“Optional Method Development”</u>
<u>DIVISION 4.8</u>	<u>“Industrial Zones”</u>
<u>Section 4.8.3.</u>	<u>“Standard Method Development”</u>
DIVISION 4.9	“OVERLAY ZONES”
Section 4.9.3	“Burtonsville Employment Area (BEA) Overlay Zone
DIVISION 6.2	“PARKING, QUEUING, AND LOADING”
Section 6.2.5	“Vehicle Parking Design Standards
DIVISION 6.6	“OUTDOOR DISPLAY AND STORAGE”
Section 6.6.3	“Design Standards”
<u>DIVISION 6.7</u>	<u>“Signs”</u>
<u>Section 6.7.9</u>	<u>“Commercial/Residential, Employment, and Industrial Zones”</u>

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*

Underlining indicates text that is added to existing law by the original text amendment.

[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.

Double underlining indicates text that is added to the text amendment by amendment.

[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.

** * * indicates existing law unaffected by the text amendment.*

OPINION

Zoning Text Amendment (ZTA) 22-10, Streets and Roads, lead sponsor Council President Albornoz at the request of the Planning Board, was introduced on July 26, 2022, with a public hearing on September 20, 2022. ZTA 22-10 replaces the existing road types referenced throughout the Zoning Ordinance with the new Complete Streets Design Guide road types.

The Office of Legislative Oversight (OLO) provided a Racial Equity and Social Justice (RESJ) impact statement. OLO found that ZTA 22-10 would have little to no impact on racial equity and social justice in the County because the ZTA only makes technical revisions to the Zoning Ordinance.

The Planning Board met on September 15, 2022, and unanimously supported ZTA 22-10. The Planning Board recommended three amendments: 1) changing references to road types that were

added to the Zoning Ordinance via ZTA's passed since introduction; 2) amending the definition of "Road" to include all new road types; and 3) providing a definition of "Street."

The T&E Committee held a worksession on October 10, 2022. The T&E Committee recommended approval of ZTA 22-10 with the amendments recommended by the Planning Board.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 22-10 will be approved as amended.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. DIVISION 59-1.4 is amended as follows:

Division 1.4. Defined Terms

* * *

Section 1.4.2. Specific Terms and Phrases Defined

* * *

N.

* * *

Nonresidential Street: A right-of-way with a [business district street or higher] classification of Downtown Boulevard, Downtown Street, Town Center Boulevard, Town Center Street, Boulevard, Major Highway, Area Connector, and Industrial Street under Chapter 49.

* * *

R.

* * *

Residential Street: A right-of-way with a classification of Neighborhood Connector, Neighborhood Street, or Neighborhood Yield Street under Chapter 49.

* * *

Road[, Arterial]: A right-of-way with a classification of Freeway, Parkway, Controlled Major Highway, Boulevard, Town Center Boulevard, Downtown Boulevard, Town Center Street, Downtown Street, Industrial, Area Connector, Neighborhood Connector, Country Connector, Country Road, Rustic Road, Exceptional Rustic Road, Neighborhood Street, Neighborhood Yield Street, Residential Shared Street, Commercial Shared Street, or Alley[See]under Chapter 49.

[Road, Business: See Chapter 49.]

[Road, Primary Residential: See Chapter 49.]

* * *

S.

* * *

Street: See definition of Road

* * *

Sec. 2. DIVISION 59-2.2 is amended as follows:

Division 2.2. Zoning Map

* * *

Section 2.2.4. Zoning and Development within Rights-of-Way

* * *

D. Development within Planned Rights-of Ways

1. In areas where the Commission has adopted a [master plan of highways and transitways]Master Plan of Highways and Transitways showing a proposed new highway or street or a proposed relocation or widening of an existing highway or street, or a proposed rapid transit route or facility, no building or part of a building is permitted to be erected within the planned acquisition line of such proposed highway or street, or rapid transit line or facility.

* * *

Sec. 3. DIVISION 59-3.2 is amended as follows:

Division 3.2. Agricultural Uses

* * *

Section 3.2.2. Agricultural Processing

* * *

B. Use Standards

Where Agricultural Processing is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

1. The minimum lot area is 10 acres.
2. The minimum setback for an Agricultural Processing structure from any lot line is 75 feet.
3. The lot must front on and have access to a road built to [primary residential]Neighborhood Connector[road] or higher standards unless processing materials are produced on-site.
4. If the subject lot abuts property in the AR zone, screening under Division 6.5 is not required.

* * *

Section 3.2.4. Equestrian Facility

* * *

B. Use Standards

1. Where an Equestrian Facility is allowed as a limited use, it must satisfy the following standards:

* * *

- g. Equestrian events are restricted as follows:

Site Requirements	Hours of Operation		Number of Participants and Spectators			
	Su-Th	Fr-Sa	Event	Informal Event	Minor Event	Major Event
			0-25	26-50	51-150	151-300
Up to 17.9 acres	6am-9pm	6am-10pm	Unlimited on any day	None	None	None
18 - 24.9 acres	6am-9pm	6am-10pm	Unlimited on any day	Unlimited on Sat, Sun and holidays; maximum of 6 weekdays per month	None	None
25 - 74.9 acres	6am-9pm	6am-10pm	Unlimited on any day	Unlimited on Sat, Sun and holidays; maximum of 6 weekdays per month	Maximum of 7 per year	None
75+ acres and direct access to a roadway with [an arterial] <u>an Area</u>	6am-9pm	6am-10pm	Unlimited on any day	Unlimited on Sat, Sun and holidays; maximum of 6	Maximum of 7 per year	Maximum of 3 per year lasting up to 3 consecutive

<u>Connector</u> or higher classification				weekdays per month		days each
--	--	--	--	-----------------------	--	-----------

Section 3.2.7. Nursery

* * *

A. Nursery (Retail)

* * *

2. Use Standards

- a. Where Nursery (Retail) is allowed as a limited use, any Nursery (Retail) over 5,000 square feet of gross floor area, may be a maximum of 50% of the mapped FAR.
- b. Where a Nursery (Retail) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:
 - i. The minimum lot area is 2 acres.
 - ii. The minimum building setback from any lot line is 50 feet; the minimum outdoor storage setback is 25 feet.
 - iii. The lot must front on and have access to a road built to [primary residential]Neighborhood Connector or higher standards. In the AR, R, and RC zones, this standard is not required if the Hearing Examiner finds that:
 - (a) Road access will be safe and adequate for the anticipated traffic to be generated; and
 - (b) The use at this location will not be an intrusion into an established residential neighborhood.

* * *

Section 3.2.8. Slaughterhouse

* * *

B. Use Standards

Where a Slaughterhouse is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

1. The minimum lot area is 20 acres.
2. The minimum setback from any lot line is 75 feet.
3. If the subject lot abuts property in the AR zone, screening under Division 6.5 is not required.
4. The lot must front on and have direct access to a road built to [primary residential]Neighborhood Connector or higher standards.

Section 3.2.10. Accessory Agricultural Uses

B. Farm Alcohol Production

2. Use Standards

- a. Where Farm Alcohol Production is allowed as a limited use, it must satisfy the following standards:

- xvi. In the RE-1 and RE-2 zones, for breweries, distilleries, and wineries:
 - (a) the minimum site area is 25 acres;
 - (b) the site must be located in an area classified as sewer category 6 in the Ten Year Comprehensive Water Supply and Sewerage Systems Plan; and
 - (c) access must be directly from a roadway classified in the approved Master Plan of Highways and

Transitways as a [primary residential]
Neighborhood Connector or higher roadway.

Section 3.2.11. Temporary Agricultural Uses

B. Seasonal Outdoor Sales

2. Use Standards

Where Seasonal Outdoor Sales is allowed as a limited use, it must satisfy the following standards:

- e. In the Agricultural, Rural Residential, Residential, LSC, and EOF zones:
 - i. The property must be vacant or used for nonresidential purposes.
 - ii. Except where Seasonal Outdoor Sales occur on the site of a Religious Assembly use, the site must front on and have access to a road built to [primary residential]Neighborhood Connector or higher standards.

Sec. 4. DIVISION 59-3.4 is amended as follows:

Division 3.4. Civic and Institutional Uses

Section 3.4.2. Charitable, Philanthropic Institution

B. Use Standards

2. Where a Charitable, Philanthropic Institution is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

* * *

c. In the AR, R, RC, and RNC:

* * *

ii. The site fronts on and has direct access to a public road built to [arterial]Area Connector or higher road standards. Frontage on and access to an [arterial]Area Connector or higher standard is not required where the Hearing Examiner finds that road access by a [primary residential or secondary residential road]Neighborhood Connector, Neighborhood Street or Neighborhood Yield Street will be safe and adequate for the anticipated traffic to be generated.

* * *

g. In the RE-2, RE-2C, RE-1, R-200, R-90, and R-60 zones:

i. The site fronts on and has direct access to a road built to [primary residential road]Neighborhood Connector or higher standards. Access to a corner lot may be from [an abutting primary street, constructed to]a [primary residential standards]Neighborhood Connector street, if the Hearing Examiner finds this access to be appropriate and not detrimental to existing residential uses on that [primary residential]Neighborhood Connector street.

* * *

Section 3.4.5. Educational Institution (Private)

* * *

C. Use Standards

* * *

2. Where an Educational Institution (Private) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

* * *

d. The number of pupils per acre allowed to occupy the premises at any one time must be specified by the Hearing Examiner considering the following factors:

i. traffic patterns, including:

(a) impact of increased traffic on residential streets;

(b) proximity to transit services, [arterial roads]Area Connectors, Town Center Streets, Downtown Streets, Boulevards, and Controlled major highways; and

(c) provision of measures for Transportation Demand Management in Chapter 42 (Section 42A-21).

* * *

Sec. 5. DIVISION 59-3.5 is amended as follows:

Division 3.5. Commercial Uses

* * *

Section 3.5.6. Lodging

* * *

B. Bed and Breakfast

* * *

2. Use Standards

* * *

b. Where a Bed and Breakfast is allowed as a conditional use, it may be permitted by the Hearing Examiner under all limited use standards, Section 7.3.1, Conditional Use, and the following standards:

i. The Hearing Examiner may deny a petition for a Bed and Breakfast with frontage on and access to a road built to less than [primary residential]Neighborhood Connector standards if it finds that road access will be unsafe and inadequate for the anticipated traffic to be generated or the level of traffic would have an adverse impact on neighboring residences.

* * *

Section 3.5.7. Medical and Dental

A. Clinic (Up to 4 Medical Practitioners)

* * *

2. Use Standards

* * *

b. Where a Clinic (Up to 4 Medical Practitioners) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

i. The minimum lot width at the front lot line is 100 feet.
 ii. The minimum setback from a lot that is vacant or residentially improved is 40 feet. The minimum setback from all other abutting lots is 20 feet.

- iii. The site must front on and have direct access to a [business district]Town Center Street or Downtown street or higher classification; however, access to a corner lot may be from an abutting street built to [primary residential]Neighborhood Connector standards, if the Hearing Examiner finds the access to be appropriate and not detrimental to existing residential uses on the [primary residential]Neighborhood Connector street.

* * *

Section 3.5.8. Office and Professional

* * *

B. Office

* * *

2. Use Standards

* * *

- b. Where an Office is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

- i. In the R-200, R-90, and R-60 zones:

* * *

- (g) In the R-60 zone, the site must be:

- (1) designated as suitable for an Office or nonresident professional office in a master plan; and
- (2) located along a highway with an existing right-of-way with a minimum width of 90 feet or along a portion of [an arterial road]a

Boulevard, Downtown Boulevard, Town
Center Boulevard, Area Connector,
Downtown Street, or Town Center Street
designated as a boundary of a Central
Business District area.

* * *

Section 3.5.9. Parking

* * *

C. Surface Parking for Use Allowed in the Zone

* * *

2. Use Standards

* * *

b. Where a sketch plan is not required:

i. the parking layout must accommodate the landscaping required
under Section 6.2.9; and

ii. in the CRT, CR, LSC, and EOF zones:

(a) the surface parking must be providing parking for a use
on an abutting lot or be a municipal public parking lot;
and

(b) for properties on a [business district street]Downtown
Street or Town Center Street, site plan approval is
required under Section 7.3.4. The Planning Board must
find that the surface parking supports commercial or
residential uses that substantially conform with the
recommendations of the applicable master plan.

Section 3.5.10. Recreation and Entertainment

* * *

D. Golf Course, Country Club

* * *

2. Use Standards

Where a Golf Course, Country Club is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

- a. The maximum coverage is no more than 3%.
- b. The minimum setback for a principal building is 50 feet.
- c. In a Residential zone, the minimum frontage is 200 feet on a road of [arterial]Area Connector or higher classification.

* * *

G. Recreation and Entertainment Facility, Outdoor (Capacity up to 1,000 Persons)

* * *

2. Use Standard

Where a Recreation and Entertainment Facility, Outdoor (Capacity up to 1,000 Persons) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use and the following standards:

- a. In the RE-2C zone:
 - i. Only a group picnic, catering and recreation facility is allowed.
 - ii. The site must be a minimum of 80 acres.
 - iii. The maximum building height is 50 feet.
 - iv. Any structure or building must be set back from any lot line a minimum of 50 feet.

- v. The site must have direct access to a public road that is built to [primary residential]Neighborhood Collector or higher standards.

* * *

- b. In the R-200 zone:

- i. Only an outdoor catering facility is allowed. An enclosed food preparation building is allowed but all catering parties must be held under pavilions, or in the open, and may include various recreational activities.
- ii. The site must be a minimum of 80 acres.
- iii. The maximum building height is 20 feet.
- iv. Any structure, building, or parking area must be setback from any lot line a minimum of 100 feet.
- v. The site must have direct access to a public road that is built to [primary residential]Neighborhood Collector or higher standards.

* * *

H. Recreation and Entertainment Facility, Major (Capacity over 1,000 Persons)

* * *

2. Use Standards

Where a Recreation and Entertainment Facility, Major (Capacity over 1,000 Persons) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

- a. In the RE-2C zone:
 - i. Only a group picnic, catering and recreation facility is allowed.

- ii. The site must be a minimum of 80 acres.
- iii. The maximum building height is 50 feet.
- iv. Any structure or building must be set back from any lot line a minimum of 50 feet.
- v. The site must have direct access to a public road that is built to [primary residential]Neighborhood Connector or higher standards.

* * *

Section 3.5.12. Vehicle/Equipment Sales and Rental

* * *

B. Light Vehicle Sales and Rental (Indoor)

* * *

2. Use Standards

- a. Where Light Vehicle Sales and Rental (Indoor) is allowed as a limited use, and the subject lot abuts or confronts a property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, it must satisfy the following standards:

- i. Access to the site from a street with a residential classification is prohibited.

* * *

- b. In the EOF zone, the tract on which a Light Vehicle Sales and Rental (Indoor) use is allowed must also be:

- i. less than 10 acres in size;
- ii. located at least 3,000 feet from a Metrorail Station;

- iii. abutting land that is not zoned in a rural residential or residential classification with any residential use located on the abutting land; and
- iv. abutting 2 or more rights-of-way; at least one of the abutting rights-of-way must be classified as a freeway and one other abutting right-of-way must be classified [at least]as an [arterial]Area Connector or higher classification roadway.

* * *

C. Light Vehicle Sales and Rental (Outdoor)

* * *

2. Use Standards

- a. Where Light Vehicle Sales and Rental (Outdoor) is allowed as a limited use, and the subject lot abuts or confronts a property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, it must satisfy the following standards:
 - i. Access to the site from a street with a residential classification is prohibited.

* * *

- b. In the EOF zone, the tract on which a Light Vehicle Sales and Rental (Outdoor) use is allowed must also be:
 - i. less than 10 acres in size;
 - ii. located at least 3,000 feet from a Metrorail Station;
 - iii. abutting land that is not zoned in a rural residential or residential classification with any residential use located on the abutting land; and

- iv. abutting 2 or more rights-of-way; at least one of the abutting rights-of-way must be classified as a freeway and one other abutting right-of-way must be classified [at least]as an [arterial]Area Connector or higher classification roadway.

Section 3.5.13. Vehicle Service

E. Repair (Major)

2. Use Standards

- b. In the EOF zone, the tract on which a Repair (Major) use is allowed must also be:
 - i. less than 10 acres in size; and
 - ii. located at least 3,000 feet from a Metrorail Station;
 - iii. abutting land that is not zoned in a rural residential or residential classification with any residential use located on the abutting land; and
 - iv. abutting 2 or more rights-of-way; at least one of the abutting rights-of-way must be classified as a freeway and one other abutting right-of-way must be classified [at least]as an [arterial]an Area Connector or higher classification roadway.

Sec. 6. DIVISION 59-4.5 is amended as follows:

Division 4.5. Commercial/Residential Zones

Section 4.5.4. Optional Method Development

417 * * *

418 **B. Development Standards**

419 * * *

420 **5. Development of Certain Biohealth Uses**

- 421 a. Additional height is permitted for any application in the
- 422 CR zone where the primary use is Research and
- 423 Development under Section 3.5.8 or Medical/Scientific
- 424 Manufacturing and Production under Section 3.6.4.D, if:
- 425 i. the development site is located within a red policy
- 426 area or opportunity zone, including contiguous
- 427 properties separated from the red policy area or
- 428 opportunity zone only by a public right-of-way; or
- 429 within ½ mile of a planned or existing Bus Rapid
- 430 Transit route including the Corridor Cities
- 431 Transitway;
- 432 ii. the development site fronts on a street classified as
- 433 an [[arterial roadway]]Area Connector or higher
- 434 classification;

435 * * *

436 **Sec. ~~[[6]]7. DIVISION 59-4.6~~ is amended as follows:**

437 **Division 4.6. Employment Zones**

438 * * *

439 **Section 4.6.3. Standard Method Development**

440 * * *

441 **D. LSC Zone, Standard Method Development Standards**

442

1. Site	Detached	Duplex - Side	Duplex - Over	Townhouse	Apartment	Multi Use	General
---------	----------	---------------	---------------	-----------	-----------	-----------	---------

	House						
* * *							
Specification for Parking Setbacks for Surface Parking Lots and Build-to Area							
a. Parking Setbacks for Surface Parking Lots and Build-to Area requirements only apply when the development fronts on a [business district street] <u>Downtown Street or Town Center Street</u> or a build-to line is recommended in the applicable master plan. The Planning Board may modify the Parking Setbacks for Surface Parking Lots and Build-to Area requirements during site plan review under Section 7.3.4. In approving a site plan submitted under Section 4.6.3.B.2, the Planning Board must find that the plan: (1) deviates from the Parking Setbacks for Surface Parking Lots and Build-to Area requirements only to the extent necessary to accommodate the physical constraints of the site or the proposed land use; and (2) incorporates design elements that engage the surrounding publicly accessible spaces such as streets, sidewalks, and parks.							
* * *							
Specification for Building Orientation and Transparency							
a. Building Orientation and Transparency requirements only apply when the development fronts on a [business district street] <u>Downtown Street or Town Center Street</u> or a build-to line is recommended in the applicable master plan. The Planning Board may modify the Building Orientation and Transparency requirements during site plan review under Section 7.3.4. In approving a site plan submitted under Section 4.6.3.B.2, the Planning Board must find that the plan: (1) deviates from the Building Orientation and Transparency requirements only to the extent necessary to accommodate the physical constraints of the site or the proposed land use; and (2) incorporates design elements that engage the surrounding publicly accessible spaces such as streets, sidewalks, and parks.							

443

444 **E. EOF Zone, Standard Method Development Standards**

445

1. Site	Detached House	Duplex - Side	Duplex - Over	Townhouse	Apartment	Multi Use	General
* * *							
Specification for Parking Setbacks for Surface Parking Lots and Build-to Area							
a. Parking Setbacks for Surface Parking Lots and Build-to Area requirements only apply when the development fronts on a [business district street] <u>Downtown Street or Town Center Street</u> or a build-to line is recommended in the applicable master plan. The Planning Board may modify the Parking Setbacks for Surface Parking Lots and Build-to Area requirements during site plan review under Section 7.3.4. In approving a site plan submitted under Section 4.6.3.B.2, the Planning Board must find that the plan: (1) deviates from the Parking Setbacks for Surface Parking Lots and Build-to Area requirements only to the extent necessary to accommodate the physical constraints of the site or the proposed land use; and (2) incorporates design elements that engage the surrounding publicly accessible spaces such as streets, sidewalks, and parks.							
* * *							
Specification for Building Orientation and Transparency							
a. Building Orientation and Transparency requirements only apply when the development fronts on a [business district street] <u>Downtown Street or Town Center Street</u> or a build-to line is recommended in the applicable master plan. The Planning Board may modify the Building Orientation and Transparency requirements during site plan review under Section 7.3.4. In approving a site plan submitted under Section 4.6.3.B.2, the Planning Board must find that the plan: (1) deviates from the Building Orientation and Transparency requirements only to the extent necessary to accommodate the physical constraints of the site or the proposed land use; and (2) incorporates design elements that engage the surrounding publicly accessible spaces such as streets, sidewalks, and parks.							

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* * *

Section 4.6.4. Optional Method Development

* * *

B. Development Standards

* * *

5. Development of Certain Biohealth Uses

- a. Additional height is permitted for any application in the LSC or EOF zone where the primary use is Research and Development under Section 3.5.8 or Medical/Scientific Manufacturing and Production under Section 3.6.4.D, if:
 - i. the development site is located within a red policy area or opportunity zone, including contiguous properties separated from the red policy area or opportunity zone only by a public right-of-way; or within ½ mile of a planned or existing Bus Rapid Transit route including the Corridor Cities Transitway;
 - ii. the development site fronts on a street classified as an [[arterial roadway]]Area Connector or higher classification;

* * *

Sec. 8. DIVISION 59-4.8 is amended as follows:

Division 4.8. Industrial Zones

* * *

Section 4.8.3. Standard Method Development

* * *

A. IL and IM Zones, Standard Method Development Standards

* * *

B. Development of Certain Biohealth Uses

1. Additional height is permitted for any application in the IM zone where the primary use is Research and Development under Section 3.5.8 or Medical/Scientific Manufacturing and Production under Section 3.6.4.D, if:

- a. the development site is located within a red policy area or opportunity zone, including contiguous properties separated from the red policy area or opportunity zone only by a public right-of-way; or within ½ mile of a planned or existing Bus Rapid Transit route including the Corridor Cities Transitway;
- b. the development site fronts on a street classified as an [[arterial roadway]]Area Connector or higher classification; and

* * *

Sec. [[7]]9. DIVISION 59-4.9 is amended as follows:

Division 4.9. Overlay Zones

* * *

Section 4.9.3. Burtonsville Employment Area (BEA) Overlay Zone

* * *

C. Development Standards

1. When property in the Overlay zone abuts a property that is not located in the BEA Overlay zone, all buildings in the Overlay zone must be set back as follows:

- a. 100 feet from any Residential zone developed with or proposed for residential uses in a master plan, or from a Boulevard or a Controlled major highway separating the Overlay zone from such residential uses;

- b. 50 feet from a railroad or utility right-of-way that separates the employment area from a Residential zone;
- c. 50 feet from a limited-access freeway or parkway;
- d. 50 feet from property recommended in a master plan for a nonresidential public use including, but not limited to such uses as a public park, stormwater management facility, maintenance facility, or similar use;
- e. 25 feet from an [arterial]Area Connector or higher classification road that separates the employment area from a Commercial/Residential or Employment zone;

* * *

Sec. ~~[[8]]10~~. DIVISION 59-6.2 is amended as follows:

Division 6.2. Parking, Queuing, and Loading

* * *

Section 6.2.5. Vehicle Parking Design Standards

* * *

M. Surface Parking in R-200, R-90, R-60, and R-40 Zones

* * *

- 3. A surfaced parking area may exceed the size limits in Section 6.2.5.M.2 if:

- a. the surfaced parking area existed before October 26, 2010 and is not increased in size;
- b. the property has primary access from a [primary residential street, minor arterial road]Neighborhood Connector Street, major highway, [arterial]Area Connector, Downtown Boulevard, Town Center Boulevard, boulevard, or any state

road, and is equal to or less than 50% of the area between the lot line and the front or side street building line;

* * *

Sec. ~~[[9]]11. DIVISION 59-6.6 is amended as follows:~~

Division 6.6. Outdoor Display and Storage

* * *

Section 6.6.3. Design Standards

* * *

B. Outdoor Storage

* * *

2. General Outdoor Storage

* * *

b. Standards

General outdoor storage is permitted and must:

- i. in the Industrial zones, include screening of inventory and equipment under Section 6.5.3, unless the use abuts or confronts property in an Industrial zone; and
- ii. in all other zones:
 - (a) have an approved plan illustrating the extent of the permitted area for general outdoor storage;
 - (b) be located on property that fronts on and has direct access to a road built to [primary]Neighborhood Connector Street or higher standards;

* * *

Sec. ~~[[10]]12. DIVISION 59-6.7 is amended as follows:~~

Division 6.7 Signs

* * *

Section 6.7.12. Commercial/Residential, Employment, and Industrial Zones

A. Base Sign Area

* * *

2. Wall Sign

- a. One sign is allowed for each customer entrance. A customer entrance includes, but is not limited to, a direct outside entrance to a shop or store, and a direct outside entrance to an enclosed mall or shopping center. Where a building includes a customer entrance abutting a public or private alley, the one allowable wall sign for such a customer entrance may be placed on a non-customer entrance that abuts ~~[[a major highway, arterial or business district road]]~~an Area Connector or higher classification road.

* * *

Sec. ~~[[10]]13~~. Effective date. This ordinance becomes effective 20 days after the date of Council adoption.

Subdivision Regulation Amendment
No.: 22-01
Concerning: Streets and Roads
Draft No. & Date: 2 – 10/19/2022
Introduced: July 26, 2022
Public Hearing: September 20, 2022
Adopted:
Effective:
Ordinance No.:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Council President Albornozy at the Request of the County Executive

AN AMENDMENT to the Montgomery County Subdivision Ordinance to:

- replace any reference to road or street types with new typology that implements the Complete Streets Design Guide and matches the updates to Chapter 49 in Bill 24-22;
- modifies the design standards of certain road types including intersection spacing and horizontal alignment, based on the Complete Streets Design Guide; and
- generally amend provisions relating to streets and roads.

By amending the following sections of the Montgomery County Subdivision Ordinance, Chapter 50 of the Montgomery County Code:

DIVISION 50.4
Section 50.4.3

“PRELIMINARY PLAN”
“Technical Review”

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*
Underlining indicates text that is added to existing law by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
** * * indicates existing law unaffected by the text amendment.*

OPINION

Subdivision Regulation Amendment (SRA) 22-01, Streets and Roads, lead sponsor Council President Alborno at the request of the Planning Board, was introduced on July 26, 2022, with a public hearing on September 20, 2022. SRA 22-01 updates the standards for intersection spacing, provides new guidance on protected intersections, and replaces all occurrences of existing street types with the new street typologies from the Complete Streets Design Guide.

The Planning Board met on September 15, 2022, and unanimously supported SRA 22-01. The Planning Board recommended two amendments: 1) defining “protected crossings”, and 2) clarifying when a Neighborhood Street or Neighborhood Yield Street may be a private road.

The T&E Committee held a worksession on October 10, 2022. The T&E Committee recommended approval of SRA 22-01 with the amendments recommended by the Planning Board.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District located in Montgomery County, Subdivision Regulation Amendment No. 22-01 will be approved as amended.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. DIVISION 50.4 is amended as follows:

* * *

Section 4.3. Technical Review

* * *

E. Roads.

1. Plan requirements.

- a. *Master plan roads.* Preliminary plans must include roads shown on any adopted Master Plan of Highways and Transitways, in satisfaction of the Road Design and Construction Code. Where applicable, an approved plan must include recommendations of the State Highway Administration for construction and access to State roads. Where private roads are specifically recommended by a master plan, the roads must be provided to the standards for private roads under this Section.

* * *

2. Design standards.

* * *

f. Intersection.

- i. Roads must be laid out to intersect as nearly as possible at right angles. The Board must not approve a proposed intersection of new roads at an angle of less than 70 degrees.
- ii. The distance between proposed road intersections, excluding alleys and driveways, must be spaced as shown in the table below, as measured from the centerline of the intersections. When the Board finds that a greater or lesser distance is appropriate, the Board may specify a greater or lesser distance than otherwise required after considering the recommendation of the transportation agency responsible for maintaining the road.

On streets with operating speeds of 30 mph or higher, protected crossings shall be included, as defined in Chapter 49 of the County Code. Protected crossings include HAWK signals, all-way stop controlled intersections, or grade-separated crossings. Protected crossing spacing targets are shown in the table below, as measured from the centerline of the intersections. Engineering judgement is needed to determine the ultimate placement and spacing between signals, with a focus on sight lines, road safety, location of trip generators, bus stops, and prevalent crossing patterns. Where ranges are provided, the lower end of the range is recommended in commercial areas, on BRT corridors, and near schools (or similar destinations).

<i>Road Classification</i>	<i>Locale</i>	<i>Distance Between Intersections (FT)</i>	<i><u>Maximum Protected Crossing Spacing Targets (FT)</u></i>
[Tertiary Residential]	[All]	[150]	
[Secondary Residential] <u>Neighborhood Street and Neighborhood Yield Street</u>	[Urban] <u>All</u>	200	<u>N/A</u>
	[Suburban]	[200]	
	[Rural]	[200]	
[Primary and Principal Secondary] <u>Connectors, Neighborhood and Area</u>	[Urban] <u>Downtown and Town Center</u>	300	<u>600</u>
	Suburban	400 – 600	600 – 1,200
	[Rural] <u>Country</u>	400 – 800	600 – 1,200
[Business District and] Industrial	[Urban] <u>All</u>	[300*] <u>400</u>	<u>800</u>
	[Suburban]	[400*]	
	[Rural]	[400*]	
Country Road	<u>All</u>	400	<u>1,300 – 2,700</u>
Country [Arterial] <u>Connector</u>	<u>All</u>	800	<u>1,300 – 2,700</u>
[Minor Arterial]	[Urban]	[300]	

	[Suburban]	[500]	
	[Rural]	[800]	
[Arterial]	[Urban]	[300*]	
	[Suburban]	[600*]	
	[Rural]	[800*]	
<u>Downtown Boulevard</u>	<u>All</u>	<u>400</u>	<u>400</u>
<u>Town Center Boulevard</u>	<u>All</u>	<u>600</u>	<u>600</u>
<u>Boulevard</u>	<u>All</u>	<u>800</u>	<u>800 – 1,000</u>
<u>Downtown Street</u>	<u>All</u>	<u>400</u>	<u>400</u>
<u>Town Center Street</u>	<u>All</u>	<u>400</u>	<u>400</u>
[Major Highway]	[Urban]	[300*]	
	[Suburban]	[800*]	
	[Rural]	[1000*]	
Controlled Major Highway	[Urban] <u>All</u>	[300] <u>1,000</u> *	<u>1,300</u>
	[Suburban]	[1000*]	
	[Rural]	[1000*]	
Parkway	[Urban] <u>All</u>	[300] <u>800</u> *	<u>800</u>
	[Suburban]	[600*]	
	[Rural]	[800*]	

*NOTE: Median breaks on divided roadways must be no closer than 600 feet except in Downtown Areas.

* * *

g. *Horizontal alignment.* In all public and private [primary, secondary and tertiary] residential streets and culs-de-sac, the alignment must be designed so that all deflections in horizontal alignment are accomplished through segments of circular curves properly incorporated into the design. The minimum permitted centerline radii must be:

- i. [Primary roads] Neighborhood Connectors 300 feet
- ii. [Secondary roads] Neighborhood Streets and Neighborhood Yield Streets more than 500 feet in length 150 feet

- iii. [Tertiary roads] Neighborhood Streets and Neighborhood Yield Streets less than 500 feet in length 100 feet

The Board must specify greater radii when safety requires. A tangent at least 100 feet long must be used between two reverse curves, except in a [secondary or tertiary residential street] Neighborhood Street or a Neighborhood Yield Street. The Board may specify a lesser radius when the Department of Transportation has previously issued a design exception for a similar design.

* * *

4. *Additional standards for private roads.*

* * *

d. *Road classifications.* When the Department of Transportation determines that the proposed road is not needed to maintain area circulation, provide continuous corridors to serve the general public and quasi-public needs such as communication, utility, and future potential transportation or other systemic needs that serve the public on a long-term basis, and is not needed to be part of the network modeled for area capacity, consideration will be given to making the following roads private:

- i. Only roads classified as either [Business District] Downtown Street, Town Center Street, Industrial, [Secondary, Tertiary] Neighborhood Street, Neighborhood Yield Street, or Alley may be considered by the Board to be private. All other road classifications must be public unless specifically permitted to be a private road by a master plan.

- 79 ii. Private roads with improvements above or below the pavement
- 80 are only allowed in projects that require site plan review and
- 81 approval.
- 82 iii. Private roads should not be permitted if they will create a
- 83 segmented road ownership pattern, unless approved by the
- 84 Planning Board.
- 85 iv. Private roads must not be permitted if they will negatively affect
- 86 development of other properties.
- 87 v. Except where a Master Plan indicates that a [Business District]
- 88 Downtown Street or Town Center Street [street] could be
- 89 private, a [Business District road] Downtown Street or Town
- 90 Center Street may be a private road only when it is not required
- 91 to provide an adequate traffic level of service. A private
- 92 [Business District] Downtown Street or Town Center Street
- 93 [street] may be approved only when the proposed road is either
- 94 not a connector between two higher classification roads or a
- 95 road that is not planned to extend beyond the boundary of the
- 96 preliminary plan.
- 97 vi. An industrial road may be a private road only when the road is
- 98 part of roads internal to the industrial site and the road is not a
- 99 connector between higher classified roads.
- 100 vii. A [secondary road] Neighborhood Street or a Neighborhood
- 101 Yield Street may be a private road only when it:
- 102 (a) connects to no more than one higher classification road
- 103 and the road does not need to be extended onto adjacent
- 104 property to facilitate a future subdivision of land[.];
- 105 [[and]]or.

106 (b) when it has a cul-de-sac less than 500 feet in length.

107 [viii. A tertiary road, when a cul-de-sac, must be less than 500 feet in
108 length.]

109 * * *

110 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the
111 date of Council adoption.

112




OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

M E M O R A N D U M

July 6, 2022

TO: Gabe Albornoz, President
Montgomery County Council

FROM: Marc Elrich, County Executive 

SUBJECT: Proposed Amendment to County Code; Chapter 49
Streets and Roads – Complete Streets

I am writing to request that Council introduce the attached Proposed Amendment to Chapter 49 of the County Code. This proposed bill incorporates Complete Streets principles into the design and construction of roads and amends Chapter 49 to modernize the street and road standards.

The road standards must be updated to address modern transportation needs. Complete Streets are designed to provide safe, accessible, and healthy travel for all users of the roadway system including pedestrians, bicyclists, transit riders, and motorists. These standards are critical to implementing the County's Vision Zero goal of eliminating traffic deaths by 2030.

I appreciate your prompt consideration of this action.

LEGISLATIVE REQUEST REPORT

Bill XX-22

Chapter 49 - Streets and Roads – Complete Streets

DESCRIPTION:	This Bill revises Chapter 49 to apply complete streets standards to the design and construction of roads and road improvements.
PROBLEM:	The road standards need to be updated to better address modern transportation needs. Complete Streets are roadways that are designed and operated to provide safe, accessible, and healthy travel for all users of the roadway system, including pedestrians, bicyclists, transit riders, and motorists.
OBJECTIVE:	Adopt complete streets standards. These are a critical component of implementing the County's Vision Zero goal of eliminating traffic deaths by 2030.
COORDINATION:	Department of Transportation and Department of Permitting Services.
FISCAL IMPACT:	Office of Management and Budget.
ECONOMIC IMPACT:	Office of Legislative Oversight
EVALUATION:	To be requested.
EXPERIENCE ELSEWHERE:	Inapplicable.
SOURCES OF INFORMATION:	<p>Maricela Cordova, Special Assistant to the Director, Strategic Projects Department of Transportation 240-777-7235</p> <p>Andrew Bossi, P.E., Senior Engineer, Transportation Policy Department of Transportation 240-777-7170</p> <p>Atiq Panjshiri, Manager, Right of Way Plan Review Department of Permitting Services 240-777-6352</p>
APPLICATION WITHIN MUNICIPALITIES:	Varies. Applicable to municipalities governed by Chapter 49.
PENALTIES:	Inapplicable.

Fiscal Impact Statement
Bill XX-22 Streets and Roads – Complete Streets

1. Legislative Summary

This Bill amends Chapter 49 to apply complete streets standards to the design and construction of roads and road improvements.

The road standards need to be updated to better address modern transportation needs. Complete Streets are roadways that are designed and operated to provide safe, accessible, and healthy travel for all users of the roadway system, including pedestrians, bicyclists, transit riders, and motorists. Complete streets standards are a critical component of implementing the County's Vision Zero goal of eliminating traffic deaths by 2030.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

It is anticipated that this Bill will have no changes to County revenues or expenditures.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

This Bill is not anticipated to have an impact on revenues and expenditures for the next six fiscal years.

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

Not applicable.

5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

Not applicable.

6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

This Bill does not authorize future spending.

7. An estimate of the staff time needed to implement the bill.

This Bill does not require additional staff time to implement; work will be absorbed with existing resources.

8. An explanation of how the addition of new staff responsibilities would affect other duties.

This Bill will not have an impact on other staff duties.

9. An estimate of costs when an additional appropriation is needed.

No additional appropriation is needed to implement this Bill.

10. A description of any variable that could affect revenue and cost estimates.

Not applicable.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

The Bill's impact on revenues or expenditures are difficult to project. Further analysis will be included in an Economic Impact Statement provided by the Office of Legislative Oversight.

12. Other fiscal impacts or comments.

None.

13. If a bill is likely to have no fiscal impact, why that is the case.

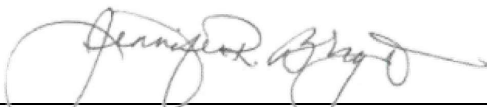
There are no anticipated changes to capital project costs resulting from this legislation.

This Bill incorporates Complete Streets guidelines for planning and design, which generally prioritize pedestrian and bike facilities over roadways. Implementation of these guidelines is generally cost neutral. For example, while sidewalks and bikeways might be one to two feet wider as a result of the guidelines, roadways would be one to two feet narrower, resulting in no additional net cost. Construction costs for County projects will continue to vary based on the nature of the project.

Furthermore, it is not expected that any additional project design work will be needed to comply with this legislation. MCDOT is in the process of implementing the guidelines in all ongoing capital planning and design projects, and there is no need for redesign to apply the guidelines retroactively.

14. The following contributed to and concurred with this analysis:

- Maricela Cordova, Department of Transportation
- Andrew Bossi, Department of Transportation
- Atiq Panjshiri, Department of Permitting Services
- Gary Nalven, Office of Management of Budget



Jennifer R. Bryant, Director
Office of Management and Budget

6-3-22

Date

Economic Impact Statement

Office of Legislative Oversight

Bill 24-22 Streets and Roads

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that enacting Bill 24-22 would have a positive overall impact on economic conditions in the County in terms of the Council's priority indicators. By incorporating Complete Streets (CS) into the design and construction of roads and road improvements in the County, the Bill likely would increase residential property values in areas surrounding CS projects that otherwise would not have been developed in the absence of the change in law. Moreover, the Bill has the potential to positively affect other priority indicators, namely employment, business revenues and creation, and commercial property values.

BACKGROUND

The goal of Bill 24-22 is to modernize the County's road standards to ensure roadways offer safe, accessible, and healthy travel for all users. The Bill would attempt to do so by amending Chapter 49 of the County Code to incorporate CS into the design and construction of roads and road improvements in the County.¹ According to the County's 2021 Complete Streets Design Guide, Complete Streets refer to "roadways that are designed and operated to provide safe, accessible, and healthy travel for all users of our roadway system, including pedestrians, bicyclists, transit riders, and motorists."² Complete Streets design principles are consistent with the County's Vision Zero initiative to eliminate all roadway-related serious injuries and fatalities by 2030.³

INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

Per Section 2-81B of the Montgomery County Code, the purpose of this Economic Impact Statement is to assess, both, the impacts of Bill 24-22 on residents and private organizations in terms of the Council's priority economic indicators and whether the Bill would have a net positive or negative impact on overall economic conditions in the County.⁴

OLO assumes the primary economic impacts of Bill 24-22 would occur through increasing the number of CS projects in the County than there otherwise would be in the absence of a CS policy. Moreover, because several sources find that CS projects are cost neutral relative to non-CS projects, OLO does not believe the Bill would significantly affect construction costs for developers and builders or the total number of projects completed in the County per year.⁵

¹ [Bill 24-22](#).

² [Montgomery County Complete Streets](#).

³ [Montgomerycountymd.gov](#), [Vision Zero](#).

⁴ Montgomery County Code, [Sec. 2-81B](#).

⁵ OMB, [Fiscal Impact Statement: Bill 24-22](#); and Anderson and Searfoss, "[Safer Streets, Stronger Economies](#)."

Economic Impact Statement

Office of Legislative Oversight

To assess the economic impacts of increasing CS projects in the County, OLO uses the following method:

1. identify studies on the direct economic outcomes of CS projects and policies using Google Scholar;⁶
2. rank the relative strengths of results from these studies using a standard Levels of Evidence (LOE) which rates evidence from experimental studies above descriptive studies;⁷ and
3. infer the Bill's impacts on stakeholders and overall economic conditions in the County based on the strength of the studies' findings.

The studies identified through OLO's search (see below) evaluate whether CS projects and policies impact the following economic indicators prioritized by the Council:

- property values;
- employment;
- business income and creation; and
- private sector capital improvement.

The focus of this analysis is to assess whether establishing a CS policy in the County would affect these indicators.

Note: OLO acknowledges that Bill 24-22 could have indirect economic impacts. For instance, there is strong evidence that CS improvements increase physical activity and safety for pedestrians and cyclists.⁸ Through increasing activity and safety, CS could decrease personal healthcare expenditures as well as revenues for the healthcare industry. Due to information and time limitations, however, these potential impacts are excluded from the scope of this analysis.

VARIABLES

The primary variables that would affect the economic impacts of enacting Bill 24-22 are the following:

- number of CS projects;
- average residential and commercial property values;
- number of full- and part-time jobs;
- total business revenues; and
- number of businesses.

⁶ The most effective search term was: "complete streets" and "economic".

⁷ See, for example, Cornell University Library, "[Levels of evidence](#)."

⁸ Countyhealthrankings.org, [Complete Streets & Streetscape Design Initiatives](#).

Economic Impact Statement

Office of Legislative Oversight

IMPACTS

WORKFORCE ■ TAXATION POLICY ■ PROPERTY VALUES ■ INCOMES ■ OPERATING COSTS ■ PRIVATE SECTOR CAPITAL INVESTMENT ■ ECONOMIC DEVELOPMENT ■ COMPETITIVENESS

Evidence Evaluation

The purported benefits of CS are many—spanning outcomes related to the economy, safety, mobility, equity, environment, and livability. However, as stated in a 2021 review, “CS has promised much and proven little.”⁹ This is especially true when it comes to the economics of CS, as researchers largely have focused on investigating its non-economic impacts.¹⁰

Using Google Scholar, OLO identified four studies that examine the impact of CS projects and policies on several economic indicators prioritized by the Council. As shown in **Table 1**, OLO ranked the studies that use quasi-experimental methodologies over the non-experimental studies in terms of strength of findings

Property Values

Yu, et al (2018) and Vendegrift and Zononi (2018) use quasi-experimental designs, specifically matching, to construct artificial control groups to account for selection bias in the adoption of CS projects or policies.¹¹ They compare the outcomes of interest—property values for homes—between units that received the treatment—homes near a CS roadway or in jurisdictions with a CS policy—and units with similar characteristics that did not receive the treatment—similar homes distant from a CS roadway or in jurisdictions with no CS policy.

The studies arrived at conflicting conclusions. Focusing on the effect of CS at the *project-level* on property values for single-family homes, Yu, et al (2018) found positive and robust effects relative to two control groups. Exposure to a CS project in Orlando increased home values and home value resiliency by 8.2% and 4.3% respectively when compared to similar homes in an area adjacent to the project and by 2.7% and 1.6% respectively when compared to similar homes around auto-oriented areas with similar characteristics.

In contrast, Vendegrift and Zononi (2018) assessed the effect of CS at the *policy-level* on residential property values in municipalities in New York and New Jersey. They found no statistically significant difference between the change in values for homes in municipalities pre- and post-CS policy adoption and for homes in municipalities with similar characteristics that had not adopted CS policies during this time.

⁹ Jordan and Ivey, “[Complete Streets](#).”

¹⁰ Ibid; Yu, et al, “[Assessing the economic benefits](#).”

¹¹ Quasi-experimental methods are distinguished from standard regression approaches and by their ability to better identify the causal effects of a policy intervention from outcomes correlated with, but unrelated to, the intervention due to unmeasured confounding, selection bias, and other threats to causal inference.

Economic Impact Statement

Office of Legislative Oversight

The non-experimental studies examined the relationship between CS projects and residential and commercial property values. Anderson and Searfoss (2015) and Perk, et al (2015) compared changes in property values before and after the completion of CS projects with property value trends in control areas or the jurisdictions where projects were located. Both studies found a positive association between CS projects and property values.

Because the non-experimental studies support the strong findings in Yu, et al (2018), OLO believes there is a high likelihood that CS projects increase residential property values for nearby homes. They may also increase commercial property values.

Other Indicators

OLO was unable to identify quasi-experimental studies on the effect of CS projects/policies on other economic indicators. Both non-experimental studies found CS projects increase employment near the sites. Anderson and Searfoss (2015) found these projects increase business revenue and creation and private investment, in addition to employment.

In the absence of stronger findings, OLO cannot be confident there is a high likelihood CS projects increase these outcomes. However, the non-experimental studies suggest CS projects may have these effects.

Table 1. Relative Strength of Findings for Studies Reviews

Source	Indicator(s)	Methodology	Findings	Relative Strength of Evidence
Yu, et al (2018)	property values	quasi-experimental: matching	CS increases property values	high
Vandegrift and Zaroni (2018)	property values	quasi-experimental: matching	no association b/w CS and property values	high
Anderson and Searfoss (2015)	property values; employment; business revenues; business creation; private investment	non-experimental: before-and-after comparison between CS projects and control areas and/or jurisdiction where project occurred	CS increases all indicators	low
Perk, et al (2015)	property values; employment	non-experimental: case study comparison between CS projects and control areas and/or jurisdiction where project occurred	CS increases property values and employment	low

Economic Impact Statement

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Residents

If Bill 24-22 increases the number of CS roadways in the County than there otherwise would be in its absence, OLO believes the change in law would have a positive impact on certain residents in the County in terms of several priority indicators of the Council.

The studies reviewed in this analysis indicate a high likelihood the Bill would increase residential property values for homes nearby CS projects that would not have occurred in the absence of the change in law. Homeowners would benefit from this outcome. However, increased property values may act to decrease housing affordability, which would adversely affect lower income home buyers and tenants.¹² The studies also suggest certain residents may benefit from increased employment opportunities.

Beyond these potential impacts, OLO is uncertain whether Bill 24-22 would affect residents in terms of the Council's other priority indicators given the limited research on the economic impacts of CS projects and policies.

Businesses, Non-Profits, Other Private Organizations

If Bill 24-22 increases the number of CS roadways in the County than there otherwise would be in its absence, OLO believes the change in law may have a positive impact on certain private organizations in the County in terms of several priority indicators of the Council. The non-experimental studies suggest the Bill may increase business revenues and creation and commercial property values in areas surrounding CS projects. Again, due to the limited research on the topic, OLO is uncertain whether Bill 24-22 would affect private organizations in terms of the Council's other priority indicators.

Net Impact

OLO believes the overall economic impact of Bill 24-22 to residents and private organizations would be positive. The magnitude of the overall impact largely would depend on the extent to which establishing a CS policy would induce CS project creations. Assessing this relationship is beyond the scope of the analysis here due to information and time limitations.

DISCUSSION ITEMS

Not applicable

¹² Yu, et al, "[Assessing the economic benefits.](#)"

Economic Impact Statement

Office of Legislative Oversight

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- Vandegrift, Donald, and Nicholas Zanoni. “[An Economic Analysis of Complete Streets Policies](#).” *Landscape and Urban Planning* 171 (March 1, 2018): 88–97.
- Yu, Chia-Yuan, Minjie Xu, Samuel D. Towne, and Sara Iman. “[Assessing the Economic Benefits and Resilience of Complete Streets in Orlando, FL: A Natural Experimental Design Approach](#).” *Journal of Transport & Health* 8 (March 1, 2018): 169–78.

CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO’s endorsement of, or objection to, the Bill under consideration.

CONTRIBUTIONS

Stephen Roblin (OLO) prepared this report.

September 19, 2022

TO: The Honorable Gabe Albornoz
President, Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 501
Rockville, Maryland 20850

FROM: Montgomery County Planning Board

Subject: Bill 24-22

BOARD RECOMMENDATION

The Montgomery County Planning Board of The Maryland–National Capital Park and Planning Commission met on September 15, 2022 and by a vote of 5:0 recommended transmitting comments supporting Bill 24-22 with modifications. Bill 24-22 is part of a larger collection of legislation also including Subdivision Regulation Amendment 22-01 and Zoning Text Amendment 22-10 that together amend the County Code to implement aspects of the Complete Streets Design Guide (CSDG).

The introduced Bill is a technical amendment that introduces changes within Chapter 49 with new area and street types, consistent with the CSDG. The Bill contains major changes to Section 49-28 (Standards and Specifications), Section 49-29 (Pedestrian Sidewalks, Bikeways and Wheelchair Traffic section), Section 49-30 (Traffic Calming Standards), Section 49-31 (Road Classification), and Section 49-32 (Design Standards for Types of Roads). Additional changes not related specifically to the CSDG have also been included by the County Executive in the proposed changes in Bill 24-22.

The Board considered the recommendations of Planning staff, as well as comments received at the meeting from representatives of the Montgomery County Department of Transportation (MCDOT) and a citizen comment related to Rustic Roads. The Planning Board (“Board”) recommends the modifications identified in the Planning staff report (Attachment A), except as noted in the summary below:

- **Issue 1 – Defining the Area Types**
 - Authorize Area Types and Identify Interim Area Types – Board concurs with Planning staff.
 - Designate three additional downtowns... – Board concurs with Planning staff.
 - Add Industrial as the Fifth Area Type... – Board concurs with proposal, however it accepts a revised definition recommended by MCDOT as follows: “Industrial areas are areas with predominantly Industrial Zoning.”

- **Issue 2 – Removing legacy area types from the county code**
 - After a discussion with MCDOT representatives, the Board concurs with MCDOT to not recommend the Planning staff modifications.
- **Issue 3 – Interim Translations for Arterials, Minor Arterials and Business District Streets**
 - After a discussion with MCDOT representatives, the Board concurs with MCDOT to not recommend the Planning staff modifications.
- **Issue 4 – Interim Translations for Primary Residential Streets in the Country Area**
 - Change the translation for Primary Residential Streets in a Country Area – Board concurs with Planning staff.
- **Issue 5 – Transition Between Street Types on Continuous Roads**
 - Delete transitions along continuous roadways – Board concurs with Planning staff.
- **Issue 6 – Authority to Modify Interim Street Type Designations**
 - Establish the Planning Board as the appropriate authority, in consultation with MCDOT, for determining when to deviate from interim street types – Board concurs with Planning staff.
- **Issue 7 – Minimum Rights of Way**
 - Correctly identify how minimum rights-of-way are to be established – Board concurs with Planning staff proposed edits, but the Board emphasized its view that newer standards introduced in the CSDG and more recent functional master plans have precedence over older master and sector plans.
- **Issue 8 – Curb Radius**
 - Revise and reorganize the curb radius section of Bill 24-22 to capture all conditions and better reflect the guidance in the CSDG – Board concurs with Planning staff, but also accepts a proposed edit proposed by MCDOT in Section 49-32(f) to be revised as follows.

As proposed by Planning Staff:

(3) a default 25-foot radius is required where at least one street is an Industrial Street;

As recommended by the Planning Board:

(3) a 25-foot radius is acceptable where at least one street is an Industrial Street.

- **Issue 9 – Modify Target Speeds**

- Designate the target speed for Boulevards as 35 mph as there are no Boulevards in Urban areas – Board concurs with Planning staff.
- Change Town Center Boulevard target speed from 30 mph to 25 mph as these streets will be located in Urban areas – Board concurs with Planning staff.
- Reflect “Twenty is Plenty” on residential streets by reducing the target speed for Neighborhood Connectors from 25 mph to 20 mph – Board concurs with Planning staff.

- **Issue 10 – Sidewalk Exemptions**

- A sidewalk exemption for the Department of Permitting Services is not needed in Section 49-29(a) as this provision is focused on capital projects, not development projects – Board concurs with Planning staff and suggests further edits be considered to clarify the distinct authority of subsections 29 and 33 regarding capital projects versus development projects.
- Clarify what it means to connect to other sidewalk segments “within the foreseeable future” as the future is not foreseeable – Board deletes this comment.
- Authorize the Planning Board to develop criteria for mitigation payments – Board concurs with Planning staff.
- Do not permit mitigation payments for sidewalks or bikeways that are conditions of Planning Board development approval – Board concurs with Planning staff and further requests that it be clarified in code that the Department of Permitting Services may only waive improvements not required as a condition of Planning Board approval.

- **Minor Issues**

- The Board concurs with Planning staff on proposed changes to address the minor issues identified with the exception of bullet ten, where the Board accepts a modified definition for protected crossing suggested by MCDOT as follows:

Protected Crossing: Specific traffic control devices that improve the safety and comfort of pedestrians and bicyclists crossing streets by reducing or eliminating conflicts, as well as increasing stopping and yielding for pedestrians and bicyclists, using measures such as traffic signals (full signals with pedestrian signals) pedestrian hybrid (HAWK) beacons, all-way stop control, or grade-separated crossings.

The Board also heard testimony from Leslie Saville, a Silver Spring resident, and suggests that her concerns regarding Rustic Roads be considered in final adoption of the bill and forthcoming executive regulations.

The Board appreciates the Council's action on this Bill updating Chapter 49 to reflect the vision of the CSDG. These changes, while technical in nature, are an important step in implementing the CSDG and in keeping the Road Code consistent with other County Codes and policies.

CERTIFICATION

This is to certify that the attached report is a true and correct copy of the technical staff report and the foregoing is the recommendation adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, at its regular meeting held in Wheaton, Maryland, on Thursday, September 15, 2022.



Casey Anderson
Chair

Attachment A: Planning Board Staff Report Package for Bill 24-22

Attachment B: Comment letter from Leslie Saville

CA:SA:aj

September 19, 2022

TO: The Honorable Gabe Albornoz
President, Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 501
Rockville, Maryland 20850

FROM: Montgomery County Planning Board

Subject: Zoning Text Amendment 22-10

BOARD RECOMMENDATION

The Montgomery County Planning Board of The Maryland–National Capital Park and Planning Commission met on September 15, 2022 and by a vote of 5:0 recommended transmitting comments supporting Zoning Text Amendment (ZTA) 22-10 with minor modifications. ZTA 22-10 is part of a larger collection of legislation also including Subdivision Regulation Amendment 22-01 and Bill 24-22 that together amend the County Code to implement aspects of the Complete Streets Design Guide (CSDG).

The introduced ZTA is a technical amendment that replaces any existing reference to road types within Chapter 59 with new road types, consistent with the CSDG, and the new road types recommended for Chapter 49 with Bill 24-22. The ZTA does not change any policy related to streets and roads, or how streets and roads may impact associated zoning or land uses.

The Board has two recommended edits to the ZTA. The first is to modify the definition of “Road” to be a comprehensive list of all street types, rather than a list of just the major types. The other recommended change is to include a definition of “Street”, which would, by definition, refer a reader back to the definition of Road. This small change is for clarity since street and road are used interchangeably within Chapter 59.

The Board appreciates the Council's action on this ZTA updating the Zoning Code to reflect the vision of the CSDG and keeping consistent with pending changes to Chapter 49. These changes, while technical in nature, are an important step in implementing the CSDG and in keeping zoning consistent with other County Codes and policies.

CERTIFICATION

This is to certify that the attached report is a true and correct copy of the technical staff report and the foregoing is the recommendation adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, at its regular meeting held in Wheaton, Maryland, on Thursday, September 15, 2022.



Casey Anderson
Chair

Attachment A: Planning Board Staff Report Package for ZTA 22-10

CA:BB:aj



September 19, 2022

TO: The Honorable Gabe Albornoz
President, Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 501
Rockville, Maryland 20850

FROM: Montgomery County Planning Board

Subject: Subdivision Regulation Amendment 22-01

BOARD RECOMMENDATION

The Montgomery County Planning Board of The Maryland–National Capital Park and Planning Commission met on September 15, 2022 and by a vote of 5:0 recommended transmitting comments supporting Subdivision Regulation Amendment (SRA) 22-01 with minor modifications. SRA 22-01 is part of a larger collection of legislation that includes Zoning Text Amendment 22-10 and Bill 24-22, which together amend the County Code to implement aspects of the Complete Streets Design Guide (CSDG).

The introduced SRA amendments portions of the Technical Review section of Chapter 50, specifically subsection E on Roads. The SRA includes new text discussing Protected Crossings where the code talks about existing intersection spacing and design. The SRA also updates the table on distances between intersections to replace the existing road classifications with the new road types included in the CSDG and to add a new column for Maximum Protected Crossing Spacing Targets. Road classification types are also replaced in the code sections on horizontal alignment and in the standards for private roads.

There are two minor modifications the Board recommends to SRA 22-01. The first is modifying the new text discussing protected crossings to include a reference to a definition which will be located in Chapter 49. The second modification in subsection 4.d.vii. under the private road standards replaces the current ‘and’ between a. and b. with an ‘or’, as the intent was not to require both conditions to be true, but only one or the other.

The Board appreciates the Council's action on this SRA updating Chapter 50 to reflect the vision of the CSDG and consistency with pending changes to Chapter 49. These changes are an important step in implementing the CSDG and in keeping the subdivision code consistent with other County Codes and policies.

CERTIFICATION

This is to certify that the attached report is a true and correct copy of the technical staff report and the foregoing is the recommendation adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, at its regular meeting held in Wheaton, Maryland, on Thursday, September 15, 2022.



Casey Anderson
Chair

Attachment A: Planning Board Staff Report Package for SRA 22-01

CA:BB:aj

ZTA 22-10, SRA 22-01, BILL 24-22 – STREETS AND ROADS

Description

ZTA 22-10, SRA 22-01 and Bill 24-22 collectively amend Chapters 59, 50, and 49, respectively, to incorporate the definitions, standards, and policies from the Complete Streets Design Guide.

ZTA 22-10, SRA 22-01,
BILL 24-22

COMPLETED: 9-8-2022

MCPB
Item No. 8
9-15-2022

2425 Reedie Drive
Floor 14
Wheaton, MD 20902

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Summary

- ZTA 22-10 is a technical update to Chapter 59, ensuring that any use or reference to road terminology is consistent with the proposed changes to Chapter 49 and with the Complete Streets Design Guide.
- SRA 22-01 updates Chapter 50, ensuring that any use or reference to road terminology is consistent with the proposed changes to Chapter 49 and with the Complete Streets Design Guide. The SRA also updates some technical specifications for intersection spacing and horizontal curve radii and adds provisions pertaining to protected intersections.
- Bill 24-22 updates Chapter 49, incorporating the Complete Streets Design Guide plus other modifications requested by the Montgomery County Department of Transportation. Planning staff is proposing some revisions to the Chapter 49 amendment.

LEAD SPONSORS

Council President Alborno at the request of the Planning Board and the County Executive

INTRODUCTION DATE:

July 26, 2022

REVIEW BASIS:

Chapter 59, 50, 49

SECTION ONE

BACKGROUND

Rationale for ZTA 22-10, SRA 22-01 and Bill 24-22

Zoning Text Amendment (ZTA) 22-10, Subdivision Regulation Amendment (SRA) 22-01 and Bill 24-22 were all introduced on July 26, 2022 by Council President Alborno. The ZTA and SRA were introduced at the request of the Planning Board, and Bill 24-22 was introduced on behalf of the County Executive. Collectively these three items are intended to align the County Code with the Complete Streets Design Guide, which was co-led by the Montgomery County Department of Transportation (MCDOT) and Montgomery Planning. Bill 24-22 is the most transformational of the updates, representing a substantial rewrite of Chapter 49, Roads, to implement new terminology, methodologies and road sections associated with the Complete Streets Design Guide. Chapter 49 is also being amended to reflect other modifications not directly related to the Complete Streets Design Guide that have been requested by MCDOT. SRA 22-01 updates a small section of Chapter 50 that also contains some roadway descriptions and roadway standards. Chapter 59's update through ZTA 22-10 is the least policy driven update and is more a technical update to replace existing references to roads and streets with the new terminology that will be in Chapter 49.

SECTION TWO

ANALYSIS

Bill 24-22

as Introduced

Bill 24-22 amends Chapter 49, to apply complete streets standards per the 2021 Complete Streets Design Guide to the design and construction of roads and road improvements as well as some language changes deemed necessary by the Montgomery County Department of Transportation (MCDOT). It is also the intention of MCDOT to develop Executive Regulations under Method 3, following the approval of this bill, to provide guidance on the planning, design, and operation of roadways for all intended users. The following is a concise summary of the proposed changes:

1. Revises Standards and Specifications (Section 49-28) to include references to the executive regulations implementing the Complete Streets Design Guide and standards and specifications from both the American Association of State and Highway Transportation Officials (AASHTO) and the National Association of City Transportation Officials (NACTO) when no county standards or specifications are applicable.

2. Revises Pedestrian Sidewalks, Bikeways, and Wheelchair Traffic (Section 49-29) to incorporate new terminology, including the term “sidepath” and to provide a fee-in-lieu option for the construction of bikeways and sidewalks under certain conditions.
3. Revises Traffic Calming standards (Section 49-30), to reference the new street types and to be in conformance with traffic calming guidance in the Complete Streets Design Guide.
4. Revises Road Classifications (Section 49-31) by defining the street areas (in subsection (a)) and street types (in subsection (c)) included in the Complete Streets Design Guide. Subsection (b) also establishes the need for both a county classification and a federal classification. Subsection (d) provides translations to convert the existing road classifications in the Master Plan of Highways and Transitways to the new street types presented in subsection (c) and in the Complete Streets Design Guide. This conversion is seen by Planning staff as a necessary interim step until a technical update to the Master Plan of Highways and Transitways can be added to the Planning Department’s work program.
5. Revises Design Standards for Type of Roads (Section 49-32) to add minimum rights-of-way for some of the proposed street types, revised curb radius guidelines consistent with the Complete Street Design Guide, and maximum target speeds for all street types.
6. The remaining proposed changes to Chapter 49 update references to street types for consistency with Section 49-31 as well as modifications deemed necessary by MCDOT.

Analysis and Recommendations

Many of the changes proposed in Bill 24-22 (Attachment A) serve as a translation/transition from the current road classification system now in Chapter 49 and used in the Master Plan of Highways and Transitways to a new classification system consistent with the Complete Streets Design Guide. These proposed changes will provide an immediate transition when the bill takes effect approval, as an interim step to a technical update of the Master Plan of Highways and Transitways. Planning staff has developed the following three-phase approach to fully accomplish this effort:

- **Phase 1: Approval of Bill 24-22 with recommended changes.** With the approval of Bill 24-22, the Council would establish interim translations for Complete Streets Design Guide area types (downtown, town center, suburban, industrial, and country) and street types in the county (Downtown Boulevard, Downtown Street, Town Center Boulevard, etc.). The resulting street designation is estimated to be 90% accurate, reflecting that not all roads fit neatly into the 12 street types, and that additional master planning review may be needed to refine some street classifications.

- **Phase 2: Adoption of the Pedestrian Master Plan.** To address some of the main deficiencies in the Phase 1 translation, and as the Pedestrian Master Plan includes recommendations that rely on Complete Streets Design Guide area types, this plan would confirm/modify the Downtown, Town Center, Suburban, Industrial, and Country areas throughout the county.
- **Phase 3: Technical Update to the Master Plan of Highways and Transitways.** This Plan update would reevaluate the classifications of all roads to fully ensure that each road is accurately and contextually classified. This would complete the transition from the old Road Code classifications to the Complete Streets Design Guide classifications.

Staff is recommending several changes to Bill 24-22. The changes have been grouped into major and minor issues. There are ten major issues and ten minor issues as presented below.

Issue 1: Defining the Area Types

Similar to Section 49-31(d), which authorizes street types and identifies interim street types until redesignated by a functional plan, master plan or sector plan, Section 49-31(a) should authorize area types and identify interim area types until redesignated by a functional plan, master plan or sector plan. Therefore, make these changes to Section 49-31(a):

- **Authorize area types and identify interim area types. Section 49-31(a), Line 739**
 - o Bill 24-22:
(a) In this Article and the regulations adopted under it:
 - o Proposed:
(a) In this Article and the regulations adopted under it, **County area types are as follows until subsequently designated by functional plans, master plans or sector plans:**
- **Designate three additional downtowns based on the visions identified in the 2014 White Oak Science Gateway Master Plan, the 2010 Great Seneca Science Corridor Master Plan and the 2017 Rock Springs Sector Plan (see Figure 1, 2 and 3 below). Section 49-31(a)(1), Lines 739-747**
 - o Proposed:
(G) Life Sciences / FDA Village in the 2014 White Oak Science Gateway Master Plan.
(H) Life Sciences Center Districts in the 2010 Great Seneca Science Corridor Master Plan: LSC Belward, LSC North, LSC Central and LSC West districts.
(I) Life Rock Springs Master Plan Boundary in the 2017 Rock Springs Sector Plan.

Figure 1: Life Sciences / FDA Village in the 2014 White Oak Science Gateway Master Plan.

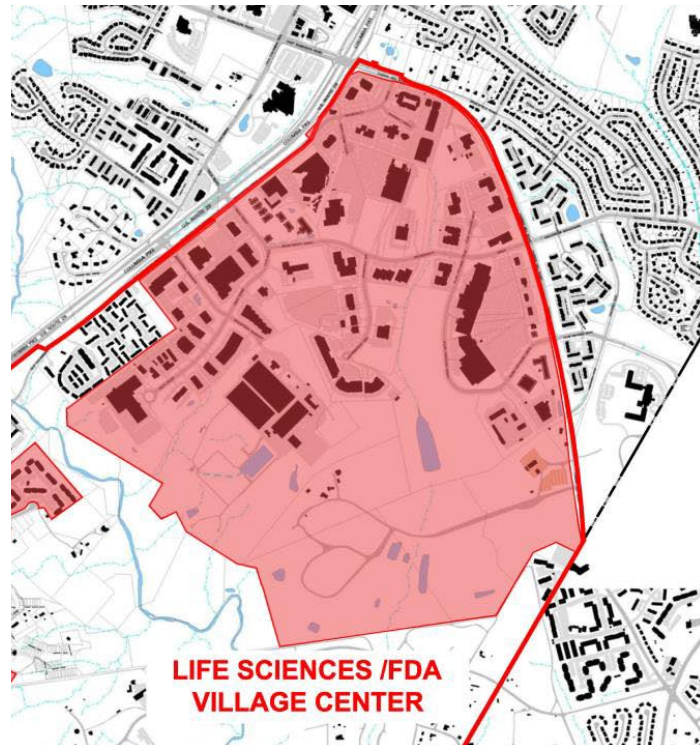


Figure 2: LSC Belward, LSC North, LSC Central and LSC West Districts

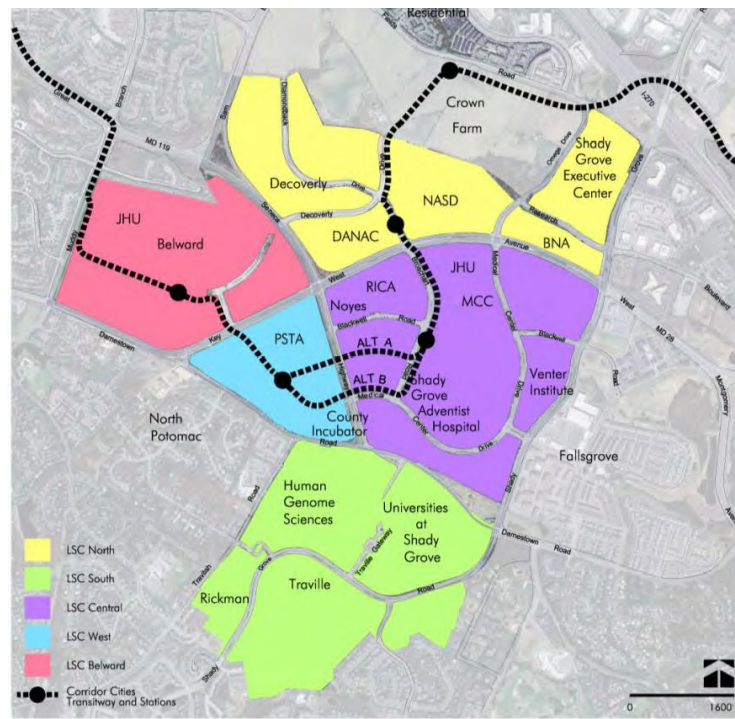


Figure 3: Rock Springs Master Plan Boundary



- **Add Industrial as the fifth area type as Bill 24-22 only includes four of the five land use context area types identified in the Complete Streets Design Guide (Downtown, Town Center, Suburban and Country). Section 49-31(a)(5), Line 761-762**
 - o Bill 24-22:
 - (5) These areas may be created, eliminated or modified by functional plans, master plans, or sector plans.
 - o Proposed:
 - (5) [[These areas may be created, eliminated or modified by functional plans, master plans, or sector plans.]] Industrial areas are areas where employment and industrial uses are the predominate activities.

Issue 2: Remove legacy area types from the county code.

The current Road Code references three area types: Urban, Suburban and Rural. The Complete Streets Design Guide replaces these with five area types: Downtown, Town Center, Suburban, Industrial and Country. The proposed changes to Chapter 49, however, retain some uses of the terms Urban Area and Rural Area. These should be removed:

- **Rural Areas**

- **Remove the rural area definition. Section 49-26, Lines 560-561**

- Bill 24-22:

- Rural area means an area designated as the Rural East and Rural West policy areas in the Growth and Infrastructure Policy.

- Proposed:

- Do not include this definition

- **Define country area using the language from the rural area definition. Section 49-31(a)(3), Line 758**

- Bill 24-22:

- (3) A country area is located within the designated Rural area.

- Proposed:

- (3) A country area is **[[located within the designated Rural area]] designated as the Rural East and Rural West policy areas in the Growth and Infrastructure Policy.**

- **Urban Areas**

- **Remove the urban area definition. Section 49-26, Lines 583-585.**

- Bill 24-22:

- Urban area means areas depicted by Appendix E in the Master Plan of Highways and Transitways as amended, or by any replacement functional, master, or sector plan that defines urban areas or urban road code boundaries.

- Proposed:

- Do not include this definition

- **Define all urban areas not explicitly defined as Downtowns or Town Centers in Chapter 49 as Town Centers. Section 49-31(a)(2)(G), Lines 756-757**

- Bill 24-22:

- (G) All other designated Urban areas that are not downtown areas.

- Proposed:

- (G) All other **[[designated Urban]] areas depicted in the Master Plan of Highways and Transitways as amended, including appendices, or by any replacement functional, master, or sector plan that defines urban areas or urban road code boundaries** that are not downtown areas.

- **Remove reference to urban areas. Section 49-32(h)(3), Line 1044**

- See Issue #9.

- **Remove reference to urban areas. Section 49-32(h)(4), Lines 1045-1046**

- See Issue #9.

Issue 3: Interim translation for Arterials, Minor Arterials and Business District Streets

Bill 24-22 establishes interim street translations that convert the current Road Code street types (such as Arterial, Minor Arterial, Business District Street, etc.) to the Complete Streets Design Guide street types (such as Downtown Boulevard, Downtown Street, Town Center Boulevard, etc.). It proposes the following through lane thresholds for converting Arterials, Minor Arterials and Business District Streets to Downtown and Town Center roads:

- Downtown Boulevard: located in a downtown area with four or more lanes
- Downtown Street: located in a downtown area with fewer than four lanes
- Town Center Boulevard: located in a town center area with three or more lanes
- Town Center Street: located in a town center area with fewer than three lanes

After reviewing maps of the translations, it was evident that these thresholds need some minor modifications. On undivided roads (those without a planned median), the threshold should be six or more lanes. On divided roads (those with a planned median), the threshold should be four or more lanes.

- ***Make the threshold for a Downtown Boulevard and Town Center Boulevard a divided road with four or more lanes or an undivided road with six or more lanes. Section 49-31(d), Lines 872-909.***

Additionally, there are several master-planned Business District Streets that are located outside of urban areas. Interim translations are needed for these roads.

- ***Set the interim translation for Business District Streets that are located in Suburban areas as Boulevards if they are planned to be four-lane divided roads and Area Connectors if they are planned to be four-lane undivided roads or two-lane roads.***

- ***Replace 49-31(d)(5)-(7) with:***

(5) Arterials:

(A) Divided arterials with four or more lanes located in a downtown area are classified as Downtown Boulevards.

(B) Divided arterials with fewer than four lanes located in a downtown area are classified as Downtown Streets.

(C) Undivided arterials with six or more lanes located in a downtown area are classified as Downtown Boulevards.

(D) Undivided arterials with fewer than six lanes located in a downtown area are classified as Downtown Streets.

(E) Divided arterials with four or more lanes located in a town center area are classified as Town Center Boulevards.

(F) Divided arterials with fewer than four lanes located in a town center area are classified as Town Center Streets.

- (G) Undivided arterials with six or more lanes located in a town center area are classified as Town Center Boulevards.
- (H) Undivided arterials with fewer than six lanes located in a town center area are classified as Town Center Streets.
- (I) Arterials located within a country area are classified as Country Connectors.
- (J) Two-lane Arterials located in a suburban area are classified as Area Connectors.
- (K) All Arterials not addressed by (A) through (J) are classified as Boulevards.

(6) Minor Arterials:

- (A) Divided minor arterials with four or more lanes located in a downtown area are classified as Downtown Boulevards.
- (B) Divided minor arterials with fewer than four lanes located in a downtown area are classified as Downtown Streets.
- (C) Undivided minor arterials with six or more lanes located in a downtown area are classified as Downtown Boulevards.
- (D) Undivided minor arterials with fewer than six lanes located in a downtown area are classified as Downtown Streets.
- (E) Divided minor arterials with four or more lanes located in a town center area are classified as Town Center Boulevards.
- (F) Divided minor arterials with fewer than four lanes located in a town center area are classified as Town Center Streets.
- (G) Undivided minor arterials with six or more lanes located in a town center area are classified as Town Center Boulevards.
- (H) Undivided minor arterials with fewer than six lanes located in a town center area are classified as Town Center Streets.
- (I) Minor Arterials located within a country area are classified as Country Connectors.
- (J) All Minor Arterials not addressed by (A) through (I) are classified as Area Connectors.

(7) Business District Streets:

- (A) Divided Business District Streets with four or more lanes located in a downtown area are classified as Downtown Boulevards.
- (B) Divided Business District Streets with fewer than four lanes located in a downtown area are classified as Downtown Streets.
- (C) Undivided Business District Streets with six or more lanes located in a downtown area are classified as Downtown Boulevards.

- (D) Undivided Business District Streets with fewer than six lanes located in a downtown area are classified as Downtown Streets.
- (E) Divided Business District Streets with four or more lanes located in a town center area are classified as Town Center Boulevards.
- (F) Divided Business District Streets with fewer than four lanes located in a town center area are classified as Town Center Streets.
- (G) Undivided Business District Streets with six or more lanes located in a town center area are classified as Town Center Boulevards.
- (H) Undivided Business District Streets with fewer than six lanes located in a town center area are classified as Town Center Streets.
- (I) Divided Business District Streets with four lanes located in suburban areas are classified as Boulevards.
- (J) Undivided Business District Streets with four lanes located in suburban areas are classified as Area Connectors.
- (K) Business District Streets with two lanes located in suburban areas are classified as Area Connectors.

Issue 4: Interim translations for Primary Residential Streets in the Country Area

Bill 24-22 establishes an interim street translation that converts Primary Residential Streets located in a Country area into Country Connectors. This translation is in error, as Primary Residential Streets now located in the Country area are more consistent with the Country Road street type.

- ***Change the translation for Primary Residential Streets in a Country Area.***
Section 49-31(d)(9), Lines 912-913
 - o Bill 24-22:
(A) Primary Residential Streets in a country area are classified as Country Connectors.
 - o Proposed:
(A) Primary Residential Streets in a country area are classified as Country
[[Connectors]] Roads.

Issue 5: Transitions between street types on continuous roads

Bill 24-22 states that where a continuous road changes from a Downtown or Town Center area to another area classification that the Downtown or Town Center street classification will extend beyond the Downtown or Town Center area to the next master planned street, not to exceed a certain distance. For instance, Spring Street is the boundary between Downtown Silver Spring and Suburban areas to the north. Therefore, Georgia Avenue's designation as a Downtown Boulevard would extend into the suburban areas to the north of Spring Street. While it is appropriate to extend Downtown and Town Center road types into other area types, identifying appropriate transitions of master plan roads is best addressed on a case-by-case basis in master plans, not in the county code, even as a temporary

translation. Planning staff's recommendation would result in the interim street classifications transitioning at the border of the Downtown or Town Center area until decided otherwise through a master plan.

- **Delete Transitions along continuous roadways. Section 49-31(d)(19). Lines 929-950**

- o Bill 24-22:

- (19) Transitions along continuous roadways:

- (A) If a Downtown road type changes classification to or from a non-Downtown road type: the Downtown classification will extend to the next master planned cross-street, not to exceed 500 feet beyond the limits of the downtown area.

- (B) If a Town Center road type changes classification to or from a non-Downtown and non-Town Center road type: the Town Center classification will extend to the next master planned cross-street, not to exceed 500 feet beyond the limits of the town center area.

- (C) If a Downtown Boulevard, Town Center Boulevard, or Boulevard change classification to or from any other type: the Downtown Boulevard, Town Center Boulevard, or Boulevard classification will extend to the next master planned cross-street, not to exceed 500 feet beyond the initial transition point.

- (D) The transition areas noted in (A) through (C) are not additive; if the roadway meets multiple transition criteria the transition area will remain to the next master planned cross street, not to exceed 500 feet from the nearest of either the limits of the downtown or town center area, or the initial transition point.

- o Proposed:

- Do not include Section 49-31(d)(19)

Issue 6: Authority to Modify Interim Street Types Designations

Master plans are the appropriate method of designating street types. However, Section 49-31(d)(20) states that MCDOT can modify an interim street type.

- **Establish the Planning Board as the appropriate authority, in consultation with MCDOT, for determining when to deviate from interim street types. 49-31(d)(20), Lines 951-955**

- o Bill 24-22:

- (20) If the Department of Transportation determines that the criteria under (d)(1) through (d)(19) are not suitable for a particular road, the Department may determine that a more context-sensitive classification or transition length applies in lieu of the default classifications.

- o Proposed:

- Replace 49-31(d)(20) with 49-31(e) as follows:

- (e) Until redesignated by functional plans, master plans, or sector plans, if the Planning Board in consultation with the Department of Transportation determines

that the criteria under (d) are not suitable for a particular road, the Planning Board may determine that a more context-sensitive classification applies in lieu of the default classifications.

Issue 7: Minimum Rights-of-Way

The existing code indicates that minimum rights-of-way may be specified in master plans. Bill 24-22 specifies what is to be included in the minimum right-of-way, however, both Planning staff and MCDOT staff agree that there is an error in the proposed bill. While the bill correctly states that the minimum right-of-way includes continuous features along a typical section, it should not mandate that the minimum right-of-way includes features such as parking, drainage, stormwater management and spot conditions. Rather, this should be determined by each master plan.

- ***Correctly identify how minimum rights-of-way are to be established. Section 49-32(c), Lines 966-974***
 - o Bill 24-22:

[(d)](c) The minimum right-of-way for a road may be specified in the most recent applicable functional plan, master plan, or sector plan for the area where the road is located. Minimum rights-of-way include continuous features along a typical section, and account for parking, drainage and stormwater management, spot conditions such as auxiliary lanes or transit stations, or infrastructure at intersections such as signal equipment and protected intersections. If a minimum right-of-way for a particular road is not specified [n] in a functional plan, master plan, or sector plan, the minimum right-of-way must be:
 - o Proposed:

[(d)](c) The minimum right-of-way for a road may be specified in the **[[most recent]]** applicable functional plan, master plan, or sector plan for the area where the road is located. Minimum rights-of-way include continuous features along a typical section**[[, and account for]].** Functional plans, master plans, or sector plans should specify whether minimum rights-of-way include parking, drainage and stormwater management, and spot conditions such as **[[auxiliary lanes or transit stations]]** turning lanes, acceleration lanes, deceleration lanes, or other purposes auxiliary to through travel, transit stations, pedestrian crossing refuges, footprints associated with grade separation, or infrastructure at intersections such as signal equipment and protected intersections. If a minimum right-of-way for a particular road is not specified [n] in a functional plan, master plan, or sector plan, the minimum right-of-way must be:

Issue 8: Curb Radius

Corner radii directly impact vehicle turning speeds and pedestrian crossing distances. Minimizing the size of a corner radius is critical to creating compact intersections with safe turning speeds. The Complete Streets Design Guide provides thorough direction on the size of curb radii, but Bill 24-22 does not fully capture the nuances in the Complete Streets Design Guide.

- ***Revise and reorganize the curb radius section of Bill 24-22 to capture all conditions and better reflect the guidance in the Complete Streets Design Guide. Section 49-32(f), Lines 1019-1035***

- o Bill 24-22:

[(h)](f) The curb radius at the corner of each intersection of two [urban] roads in Downtown or Town Center areas must not exceed 15 feet. The curb radius at the corner of intersections where all intersecting streets are Area Connectors, Neighborhood Connectors, Neighborhood Streets, or Neighborhood Yield Streets must not exceed 10 feet. Exceptions to these requirements may be allowed as follows [except where]:

[(1)] there is only one receiving lane;

[(2)](1) there is a curb extension [is located]; [or]

(2) a default 25-foot radius is required where at least one street is an Industrial Street;

(3) a larger radius is needed to serve the design vehicle and control vehicle with consideration of the allowable encroachment defined by the Complete Streets Design regulation; or

[(3)](4) [for] a road improvement required [as a result of approving] by a subdivision or site plan [, the Executive or the Executive's designee concludes that applying this standard at a specific site] would significantly impair public safety.

- o Proposed:

[(h)](f) The curb radius at the corner of each intersection **[[of two]]** [urban] **[[roads must not exceed]]** is 15 feet. **[[The curb radius at the corner of intersections where all intersecting streets are Area Connectors, Neighborhood Connectors, Neighborhood Streets, or Neighborhood Yield Streets must not exceed 10 feet.]]** Exceptions to these requirements may be allowed as follows [except where]:

[(1)] there is only one receiving lane;

(1) A maximum 10-foot corner radius is required at intersections where all intersecting streets are Area Connectors, Neighborhood Connectors, Neighborhood Streets, or Neighborhood Yield Streets.

~~[(2)]~~~~[[1]]~~ (2) A larger corner radius is acceptable where there is a curb extension [is located]; [or]

(3) A default 25-foot corner radius is required where at least one street is an Industrial Street;

~~[[3) a]]~~ (4) A larger corner radius is needed to serve the design vehicle and control vehicle with consideration of the allowable encroachment defined by the Complete Streets Design regulation; or

~~[(3)]~~~~[[4]]~~(5) [for] a road improvement required [as a result of approving] by a subdivision or site plan [, the Executive or the Executive's designee concludes that applying this standard at a specific site] would significantly impair public safety.

Issue 9: Modify target speeds

Bill 24-22 identifies interim street types until redesignated by a functional plan, master plan or sector plan. A few changes to the interim target speeds are needed to reflect current best practices. These changes will also make it possible to remove the Urban area definition described in Issue #3.

- ***Designate the target speed for Boulevards as 35 mph as there are no Boulevards located in Urban areas. Section 49-32(h)(3), Line 1044***
 - o Bill 24-22:
(3) 35 mph for a Boulevard, except 25 MPH if in an Urban Area;
 - o Proposed:
(3) 35 mph for a Boulevard~~[[, except 25 MPH if in an Urban Area]]~~;
- ***Change Town Center Boulevard target speed from 30 mph to 25 mph as these streets will be located in Urban Areas. Section 49-32(h)(4), Lines 1045-1046***
 - o Bill 24-22:
(4) 30 mph for a Town Center Boulevard, except 25 MPH if in an Urban Area;
 - o Proposed:
(4) ~~[[30]]~~25 mph for a Town Center Boulevard~~[[, except 25 MPH if in an Urban Area]]~~;
- ***Reflect “20 is Plenty” on residential streets by reducing the target speed for Neighborhood Connectors from 25 mph to 20 mph. Section 49-32(h)(7), Line 1049***
 - o Bill 24-22:
(7) 25 mph for a Neighborhood Connector;
 - o Proposed:
(7) ~~[[25]]~~20 mph for a Neighborhood Connector;

Issue 10: Sidewalk Exemptions

In addition to incorporating the Complete Streets Design Guide into Chapter 49, Bill 24-22 also makes changes to sidewalk exemptions. Some of these changes appear to be unnecessary and others are inconsistent with previous direction from the Planning Board.

- ***A sidewalk exemption for the Department of Permitting Services is not needed in Section 49-29(a) as this provision is focused on capital projects, not development projects. Section 49-29(a)(5), Lines 635-638.***
 - o Bill 24-22a:
 - (5) where the Department of Permitting Services finds that a bikeway or sidewalk is infeasible because it will not connect to any destination within the foreseeable future, or the facility qualifies for fee payments in lieu of construction under Section 49-40.
 - o Proposed:
 - Do not include Section 49-29(a)(5).
- ***Clarify what it means to connect to other sidewalk segments “within the foreseeable future” as the future is not foreseeable. Section 49-29(a)(5), Lines 635-638 and Section 49-33(d)(1)(E), Lines 1099-1105.***
- ***Authorize the Planning Board to develop criteria for mitigation payments. Section 49-33(d)(1), Lines 1077-1105.***
 - o Proposed:
 - (F) any sidewalk or master-planned bikeway where the Planning Board establishes criteria to accept a payment in lieu of a transportation improvement.
- ***Do not permit mitigation payments for sidewalks or bikeways that are conditions of Planning Board development approval. Section 49-40(b)(1)(B), Lines 1352-1364***
 - o Proposed:
 - (iii) any sidewalk or bikeway that is a condition of a Planning Board development approval.

Minor Issues

- Interim street type translations will not be used for the recently approved Silver Spring Downtown and Adjacent Communities Master Plan, as the intended Complete Street Design Guide street type classifications were identified in the Classification Table.
- Clarify that Section 49-29 is intended for capital projects and that 49-33 is intended for development projects.
- Section 49-28(a), Line 603: “Complete” should be lowercase.
- Section 49-29(a)(1), Line 622-623: Master-planned sidepaths are needed for regional connections and should not be exempted:
 - (1) any sidewalk or any sidepath that is not master-planned in front of a lot that is larger than 25,000 square feet for a single-family detached dwelling in a rural zone;
- Section 49-30(a), Line 659: Replace “choker” with “curb extension”.

- Section 49-30(b)(2), Line 678: Remove “shared streets” as this should be considered as part of the Shared Streets Guidelines¹.
- Section 49-31(a)(6), Line 673: Delete the following sentence as it is not needed: “Roads are included in the area within which they are located.”
- Section 49-31(c)(6), Line 794: Change “cross-country” to “cross-county”.
- Section 49-33(d)(1)(D), Lines 1094-1098: Add the words “Planning Board and” as shown below.
(D) any sidewalk if the site is located in an environmentally sensitive area with limits on the amount of impervious surface allowed if the Planning Board and Department of Transportation find that a sidewalk is not expected to be necessary for pedestrian movement; or
- Insert the following definition into Section 49-26 (insert at line 548):
Protected Crossing: A collection of design elements to improve the safety and comfort of pedestrians and bicyclists crossing streets by reducing conflicts using traffic signals (full signals, pedestrian signals, HAWK signals), all-way stop control, or grade-separated crossings; reducing speeds of motor vehicles; increasing visibility of pedestrians and bicyclists; increasing yielding to pedestrians and bicyclists; and reducing crossing distances.

ZTA 22-10

as Introduced

Zoning Text Amendment (ZTA) 22-10 is the least policy driven of the three documents updated as part of the Complete Streets package of bills, and only updates existing roadway classification terminology with the new roadway classifications from Chapter 49 and the Complete Streets Design Guide. The full ZTA can be seen in Attachment B.

Analysis and Recommendations

As with the SRA, there are a couple of recommended changes to ZTA 22-10 to help with comprehension. The first is an adjustment to the definition of Road, starting on line 18 of the ZTA. A couple of the road types from the Complete Streets Design Guide were inadvertently left off this list including the new separation of Connector into Area and Neighborhood Connector, the distinction between Rustic and Exceptional Rustic Roads, and shared streets. The modified text would now read as shown below:

Road[, Arterial]: A right-of-way with a classification of Freeway, Parkway, Controlled Major Highway, Boulevard, Town Center Boulevard, Downtown Boulevard, Town Center Street, Downtown Street, Industrial, Area Connector, Neighborhood Connector, Country Connector,

¹ MCDOT and Planning staff are collaborating on developing Shared Street Guidelines, an effort that will develop a shared understanding of these unique street types and best practices in shared streets in North America and may take the form of an additional chapter in the Complete Streets Design Guide. The guidelines will develop a typology of state-of-the-art shared streets that are established from historic precedents and distinguished contemporary examples, and evaluate Montgomery County’s policies, regulations, and practices and how they help or hinder the ability to implement best practices.

Country Road, Rustic Road, Exceptional Rustic Road, Neighborhood Street, Neighborhood Yield Street, Residential Shared Street, Commercial Shared Street or Alley[See]under Chapter 49.

Additionally, the Zoning Code uses the terms road and street interchangeably. The code does define Residential Street and Nonresidential Street but does not define street as a general term. Planning staff recommends adding a new definition of Street to the definition section of the code, that as defined would refer to the definition of Road. This addition is minor but helps to streamline interpretation in the future.

In addition to the sections that will be updated by the introduced ZTA, there have been other ZTAs recently, which have made reference to roadway classifications that need to also be updated. This includes ZTA 22-02 on density and height limits for certain biohealth users (adopted on July 26, 2022), and ZTA 22-06 on exemptions for historic resources (introduced on June 14, 2022). Both ZTAs reference arterial or higher classified roadways, which would need to become Area Connector or higher classification of roadway.

SRA 22-01

as Introduced

Subdivision Regulation Amendment (SRA) 22-01, which was introduced as requested by the Planning Board, amends Chapter 50, specifically the section on Roads under Section 4.3.E. The main modifications are within the intersection design standards section. First, a new section was added providing guidance on protected crossings, including using HAWK, all-way stop, or grade separated crossings, focusing on pedestrian safety and taking into account the adjacent land uses and built environment. Within that section is an existing table showing recommended distances between intersections based on road classification. The SRA updates this table substantially to reflect the new road classification types, new recommended distances between intersections, and adding a new column for protected crossing spacing targets. Also updated are the horizontal alignment minimum permitted centerline radii, updating the roadway terminology. The last section updated in Chapter 50, still under 4.5.E, is a subsection on private roads. The updates to this section are also technical updates replacing existing roadway classifications with updated terminology.

Analysis and Recommendations

Planning staff is recommending a couple of minor updates to SRA 22-01, as introduced, to improve readability and comprehension of the code. The first change is recommended starting on line 28 of the SRA (Attachment C). New language was added including protected crossings to the intersection design standards section of code, but the source of a definition of what a protected crossing was not included. This section should be modified to explain where to find a definition of protected crossing (recommended above to be added to Chapter 49) and clarify that protected intersections may include the listed types seen below.

On streets with operating speeds of 30 mph or higher , protected crossings ~~shall be included, as defined in Chapter 49 of the County Code.~~ Protected crossings include HAWK signals, all-way stop controlled intersections, or grade-separated crossings. Protected crossing spacing targets are shown in the table below, as measured from the centerline of the intersections. Engineering judgement is needed to determine the ultimate placement and spacing between signals, with a focus on sight lines, road safety, location of trip generators, bus stops, and prevalent crossing patterns. Where ranges are provided, the lower end of the range is recommended in commercial areas, on BRT corridors, and near schools (or similar destinations).

A second minor change is recommended to line 103 of the introduced SRA where an ‘and’ is used to connect subsections (a) and (b) on when Neighborhood Streets or Neighborhood Yield Streets may be private. Upon re-reading this part of the code, this connection should be replaced with an ‘or’ as these two sections do not both need to be true to allow for a private street.

- vii. A [secondary road] Neighborhood Street or a Neighborhood Yield Street may be a private road only when it
- (a) connects to no more than one higher classification road and the road does not need to be extended onto adjacent property to facilitate a future subdivision of land[.]; ~~[[and]] or,~~
 - (b) when it has a cul-de-sac less than 500 feet in length.

SECTION THREE

NEXT STEPS AND CONCLUSION

Next Steps

With the adoption of the three subject bills into County Code, Planning staff will initiate a revision to the Complete Streets Design Guide to incorporate a few of the changes to Chapters 49, 50 and 59. As proposed, these include the following changes:

- Change the name of the document from “Montgomery County Complete Streets” to “Montgomery County Complete Streets Design Guide” to differentiate it from a manual, which is prescriptive.
- Rename “Major Highways” street type to “Controlled Major Highways.”
- Revise the “Neighborhood Connector” street type to “Connector.”

- Modify the “Connector” street type to include both Neighborhood Connectors and Area Connectors.
- Change the target speed for Town Center Boulevards to 25 mph.
- Change the target speed for Neighborhood Connectors to 20 mph.
- For Town Center Boulevard, Town Center Street, Neighborhood Street and Neighborhood Yield Street, change the category “Sidewalk / Sidepath” to “Sidewalk” as sidepaths are not desirable on those street types.
- Any additional Complete Streets-related code changes approved by the Council that conflict with current Complete Streets Design Guide guidance.

The revised Complete Streets Design Guide document will be presented to the Planning Board for review and approval.

Conclusion

Planning staff supports Bill 24-22, ZTA 22-10, and SRA 22-01 implementing many of the recommendations of the Complete Streets Design Guide, with the revisions discussed above in this report. These updates are a major step forward in helping implement countywide complete streets, and in achieving the county’s vision zero goals. Planning staff recommends the Board transmit comments on the three Complete Streets bills as reflected in this staff report.

Attachment A – Bill 24-22 introduction packet

Attachment B – ZTA 22-01 as introduced

Attachment C – SRA 22-01 as introduced

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

BILL 24-22: STREETS AND ROADS

SUMMARY

The Office of Legislative Oversight (OLO) finds the racial equity and social justice (RESJ) impact of Bill 24-22 is indeterminant due to insufficient information on whether Black, Indigenous, and other people of color (BIPOC) residents will be the primary beneficiaries of roadway projects developed with complete streets standards.

PURPOSE OF RESJ IMPACT STATEMENT

The purpose of RESJ impact statements is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.¹ Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.²

PURPOSE OF BILL 24-22

In February 2021, the Montgomery County Planning Department published the Complete Streets Design Guide, providing “policy and design guidance on the planning, design, and operation of county roadways.”³ The guide was developed to be used in the following situations:

- When designing future streets or reconstructed streets in an area experiencing redevelopment;
- When implementing a capital improvement project, such as the construction or reconstruction of a street; intersection, or bridge; and
- When resurfacing a street or conducting major work in the street, which may create an opportunity to reconsider some aspects of the street’s design.

The guide aligns the County’s approach to designing roads to the “Complete Streets” concept, where roadways are “designed and operated to provide safe, accessible, and healthy travel for all users of the roadway system, including pedestrians, bicyclists, transit riders, and motorists.”⁴ According to the Planning Department, the following principles were prioritized in developing the guide:

- Safety – maximize safety for all (pedestrians, bicyclists, and motor vehicles);
- Sustainability – enhance ecological functions and economic appeal of a streetscape; and
- Vitality – create streets that are great, dynamic places.

The Complete Streets Design Guide was also developed to support the County’s Vision Zero goal of eliminating serious and fatal collisions on County roads for vehicle occupants, pedestrians, and bicyclists by the end of 2030.⁵

RESJ Impact Statement

Bill 24-22

The goal of Bill 24-22 is to revise Chapter 49, Streets and Roads, of the County Code to implement the Complete Streets Design Guide, applying complete streets standards to the design and construction of roads and road improvements.⁶ The Bill was introduced along with Zoning Text Amendment (ZTA) 22-10 and Subdivision Regulation Amendment (SRA) 22-01 to also revise Chapter 59 (Zoning Ordinance) and Chapter 50 (Subdivision of Land) of the County Code for implementing the Complete Streets Design Guide.

At the request of the County Executive, Bill 24-22 was introduced to the Council on July 26, 2022.

In November 2021, OLO published a RESJ impact statement (RESJIS) for Bill 36-21, Motor Vehicles and Traffic – E-Scooters – Operation Requirements and Registration.⁷ OLO builds on Bill 36-21’s analysis for this RESJIS.

TRANSPORTATION INFRASTRUCTURE AND RACIAL EQUITY

The complete streets concept has been highlighted as a promising model for communities to improve health, safety, and economic opportunities for all residents.⁸ However, research and practice suggest that an intentional focus on racial equity is needed for complete streets policies to effectively address entrenched inequities in transportation infrastructure, which contribute to segregation, concentrated poverty, and other diminished quality of life outcomes for BIPOC.^{9,10} For context, this section describes the historical drivers of racial inequities in transportation infrastructure and available data on racial disparities in traffic injuries that could be impacted by Bill 24-22.

Inequities in Transportation Infrastructure. A history of inequitable policies and practices have shaped today’s transportation landscape. The Federal-Aid Highway Act of 1956, which created the interstate highway system, was one of the most consequential transportation policies for accelerating racial inequities in various domains. As described by Deborah Archer, professor at New York University School of Law:

“Class and racial inequality, economic deprivation and depression, and residential isolation and segregation are all a part of the legacy of highway politics that focus on growth and expansion at the expense of Black communities: by building roads to (W)hites-only suburbs through the heart of Black neighborhoods. While the highways connected (W)hite people living in suburbia with economic opportunities in the city, Black residents were excluded from (W)hite neighborhoods and forced to find new housing in communities already intensely segregated by race and class, further taxing inadequate housing, employment opportunities, and public services.”¹¹

Highway construction and urban renewal efforts through the 1970s destroyed and displaced many Black neighborhoods, increasing isolation, crowding, and clustering of BIPOC communities.¹² The U.S. Department of Transportation estimated in the 20 years after the passage of the Federal-Aid Highway Act, more than 475,000 households were displaced, mostly in low-income and BIPOC communities.¹³ In 2022, two students from Eastern Middle School in Silver Spring won the C-SPAN StudentCam documentary competition for their film on Gibson Grove, a once thriving Black community in the County that was divided by the construction of I-495 in the 1950s.¹⁴ Of note, more recent plans to include portions of the Gibson Grove Cemetery in the I-495 expansion path were discontinued after community resistance.¹⁵

RESJ Impact Statement

Bill 24-22

Since the early 2000s, the gentrification and influx of high-income residents into city centers has pushed many low-income residents into car-dependent suburbs.¹⁶ Today, in a transportation system dominated by cars, limited access to vehicles and dependence on unreliable and underinvested public transit often makes it more difficult for BIPOC residents to access jobs, education, healthy food options, and more.¹⁷ Residential patterns defined by structural racism persist today, with the racial wealth gap allowing more housing and transportation choices for White residents and meanwhile limit choices for BIPOC residents.¹⁸ The spatial mismatch for low-wage workers is most prevalent in the suburbs, where a lack of public transit often hinders their ability to commute efficiently.¹⁹

Disparities in Traffic Injuries. Historically inequitable policies and practices in transportation infrastructure have fostered disparities in traffic-related injuries by race and ethnicity. Researchers note that unsafe street infrastructure conducive to traffic accidents – such as inadequate sidewalks and crosswalks, and major arterial roads that prioritize speed and car volume over pedestrian safety – often characterize low-income communities.²⁰ Racial and ethnic differences in the social determinants of health have also been cited as drivers of racial disparities in traffic-related injuries.²¹ National data on traffic injury shows that:

- Black and Indigenous Americans have the highest rates of traffic deaths at 68.5 and 145.6 per 100,000, followed by White (55.2 per 100,000), Latinx (46.9 per 100,000) and Asian (15.3 per 100,000) persons.²²
- Black cyclists have per mile fatality rates four times higher than White cyclists, and Latinx cyclists have per mile fatality rates 70 percent higher than White cyclists.²³
- For motorcycle crashes, Black victims were 1.5 times more likely to die from their injuries than similarly injured White victims, even though they were 30 percent more likely to have been wearing helmets.²⁴
- Black and Indigenous Americans have pedestrian deaths two to three times higher than White Americans. Further, the lower the income of the census tract, the more likely a person is to be struck and killed while walking there.²⁵

Available local data also demonstrates disparities in traffic injuries by race and ethnicity:

- Between 2011 and 2015, Latinx pedestrians were the most likely to be killed in a traffic incident (2.9 per 100,000) followed by Black pedestrians (1.6 per 100,000) and White pedestrians (0.9 per 100,000).²⁶
- Between 2011 and 2015, Black residents were the most likely to be killed among vehicle occupants (4.3 per 100,000) followed by White residents (3.4 per 100,000) and Latinx residents (3.2 per 100,000).²⁷
- Local communities in Montgomery County with higher rates of poverty, persons of color, and younger residents have higher collision rates compared to the rest of the County.²⁸

ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Bill 24-22 on RESJ in the County, OLO recommends the consideration of two related questions:

- Who are the primary beneficiaries of this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

RESJ Impact Statement

Bill 24-22

For the first question, OLO considered cumulative funding for road-related transportation projects (bridges, pedestrian facilities/bikeways, roads, traffic improvements) in the FY23 Capital Improvements Program (CIP) budget to understand which communities could benefit most from roadway projects developed with complete streets standards.

Table 1 summarizes the distribution of costs for road-related projects across Council districts, and Table 2 summarizes resident demographics by Council district. The 'District' categories in Table 1 include costs for projects that are identified by district in the CIP, such as the Goldsboro Road Sidewalk and Bikeway project in District 1; the Watkins Mill Road Extended project in District 3; and the Silver Spring Green Trail project in District 5. The 'Countywide' category in Table 1 includes projects where the district is identified as Countywide in the CIP and could affect one or more districts. A full listing of projects included under each category is available in Table 3 in the Appendix.

Table 1: Total Cost of FY23 CIP Road-Related Projects by Council District

District	Total Cost (in thousands)	Total Cost (%)
Countywide	\$870,601	41.3
District 1	\$427,976	20.3
District 2	\$380,724	18.1
District 3	\$62,128	2.9
District 4	\$130,534	6.2
District 5	\$235,241	11.2

Source: Montgomery County Office of Management and Budget via Open Budget.

Table 2: Resident Demographics by Council District²⁹

District	% White	% Black	% Latinx	% Asian
Countywide	45.9	17.3	18.6	14.5
District 1	71.5	4.8	8.5	12.0
District 2	40.1	19.0	19.2	18.2
District 3	45.8	12.2	18.8	19.5
District 4	38.6	18.5	26.4	12.7
District 5	33.2	32.4	20.2	10.2

Source: 2016 Demographic Profile of Council Districts.

Table 1 demonstrates where a specific district is identified, District 1 has the largest allocation for road-related projects. District 1, where 71.5 percent of residents are White, received nearly two times the funding of District 5 and three times the funding of District 4, where the majority of residents are BIPOC. Of note, District 3 has the lowest allocation, possibly because more projects within this district are funded through the incorporated localities of Rockville and Gaithersburg.

Funding for the FY23 CIP suggests White residents are disproportionate beneficiaries of road-related transportation projects and could thus be the primary beneficiaries of future roadway projects developed with complete streets standards. However, 41.3 percent of funding for road-related projects, or \$870.6 million, is not identifiable by Council district. Therefore, OLO cannot definitively conclude whether there are racial or ethnic disparities among the primary beneficiaries of this Bill.

RESJ Impact Statement

Bill 24-22

For the second question, OLO considered the effect this Bill could have on reducing transportation inequities in the County. If the adoption of complete streets standards works as intended, BIPOC residents could benefit from safer designed streets, since they are more likely to suffer from traffic-related injuries than White residents. However, as previously implied, it is unclear whether BIPOC residents and communities will be the primary beneficiaries of roadway projects developed with complete streets standards. Further, it is unclear the extent to which complete streets could generally encourage redevelopment, which often tends to favor higher-income residents, White residents, and White-owned businesses, and has the potential to displace low-income and BIPOC residents.

Taken together, OLO finds the RESJ impact of this Bill is indeterminant.

Of note, OLO assumed the primary beneficiaries of roadway projects are the residents of the districts where the projects are occurring. A more comprehensive equity analysis would consider each individual project and whether they benefit residents within a larger or smaller radius, providing a more precise understanding of affected residents and RESJ impact. See 'Recommended Amendments' for more information on equity reviews for Capital Improvement Programs.

RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.³⁰ OLO finds the racial equity the RESJ impact of Bill 24-22 is indeterminant due to insufficient information on whether BIPOC residents will be the primary beneficiaries of roadway projects developed with complete streets standards. OLO does not offer recommended amendments since the Bill was not found to be inequitable.

While OLO cannot conclude BIPOC residents will not be the primary beneficiaries of Bill 24-22, funding for the FY23 CIP suggests that, where the specific Council district of a project is identified, White residents are disproportionate beneficiaries of road-related transportation projects and could thus be the primary beneficiaries of future roadway projects developed with complete streets standards. To have a more accurate understanding of the RESJ impact of adopting the complete streets framework, the Council could consider commissioning a comprehensive equity review of the CIP, as recently recommended for Expedited Bills 15-22, 16-22, and 19-22.³¹

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

OLO staffer Janmarie Peña, Performance Management and Data Analyst, drafted this RESJ impact statement with assistance from Elaine Bonner-Tompkins, OLO Senior Legislative Analyst.

RESJ Impact Statement

Bill 24-22

APPENDIX

Table 3: Listing of Road-Related Transportation Projects in the FY23 Capital Improvements Program

Detailed descriptions for each project can be accessed from the [Transportation](#) page in the Open Budget website.

	(total cost in thousands)				
	Bridges	Pedestrian Facilities/Bikeways	Roads	Traffic Improvements	Grand Total
Countywide	\$117,469	\$241,665	\$183,831	\$327,636	\$870,601
ADA Compliance: Transportation		\$15,312			\$15,312
Advance Reforestation			\$1,109		\$1,109
Advanced Transportation Management System				\$68,231	\$68,231
Bicycle-Pedestrian Priority Area Improvements		\$18,945			\$18,945
Bikeway Program Minor Projects		\$23,241			\$23,241
Bridge Design	\$34,018				\$34,018
Bridge Preservation Program	\$13,963				\$13,963
Bridge Renovation	\$69,488				\$69,488
Capital Crescent Trail		\$116,097			\$116,097
Cherry Hill Road Bike Facility		\$4,000			\$4,000
Dedicated but Unmaintained County Roads			\$769		\$769
Facility Planning - Pedestrian Facilities and Bikeways		\$13,290			\$13,290
Facility Planning-Roads			\$66,557		\$66,557
Guardrail Projects				\$4,443	\$4,443
Highway Noise Abatement			\$2,915		\$2,915
Intersection and Spot Improvements				\$29,276	\$29,276
MCG Reconciliation PDF			\$0		\$0
Neighborhood Traffic Calming				\$4,491	\$4,491
Norwood Road Shared Use Path		\$4,000			\$4,000
Pedestrian Safety Program				\$55,582	\$55,582
Public Facilities Roads			\$2,171		\$2,171
Sidewalk Program Minor Projects		\$43,592			\$43,592
State Transportation Participation			\$84,450		\$84,450
Streetlight Enhancements-CBD/Town Center				\$5,930	\$5,930
Streetlighting				\$32,772	\$32,772
Subdivision Roads Participation			\$24,360		\$24,360
Traffic Signal System Modernization				\$51,118	\$51,118
Traffic Signals				\$75,793	\$75,793

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Transportation Feasibility Studies			\$1,500		\$1,500
Transportation Improvements For Schools		\$3,188			\$3,188
District 1	\$23,089	\$223,592	\$179,200	\$2,095	\$427,976
Beach Drive Bridge	\$4,202				\$4,202
Bethesda Bikeway and Pedestrian Facilities		\$12,448			\$12,448
Bethesda Transportation Infrastructure Development				\$200	\$200
Bradley Boulevard (MD 191) Improvements		\$16,465			\$16,465
Elmhirst Parkway Bridge (Bridge No. M-0353)	\$2,141				\$2,141
Garrett Park Road Bridge M-0352	\$8,406				\$8,406
Glen Road Bridge	\$4,585				\$4,585
Goldsboro Road Sidewalk and Bikeway		\$21,096			\$21,096
MacArthur Blvd Bikeway Improvements		\$21,208			\$21,208
MD 355 Crossing (BRAC)		\$108,980			\$108,980
Piney Meetinghouse Road Bridge	\$3,755				\$3,755
Platt Ridge Drive Extended			\$4,301		\$4,301
Seven Locks Bikeway and Safety Improvements		\$26,760			\$26,760
Tuckerman Lane Sidewalk		\$16,635			\$16,635
White Flint District East: Transportation			\$29,690		\$29,690
White Flint District West: Transportation			\$71,095		\$71,095
White Flint Traffic Analysis and Mitigation				\$1,895	\$1,895
White Flint West Workaround			\$74,114		\$74,114
District 2	\$42,731	\$26,377	\$311,616		\$380,724
Brink Road Bridge M-0064	\$5,551				\$5,551
Clarksburg Transportation Connections			\$10,600		\$10,600
Davis Mill Road Emergency Stabilization			\$2,340		\$2,340
Dorsey Mill Road Bridge	\$34,020				\$34,020
Frederick Road Bike Path		\$7,402			\$7,402
Goshen Road South			\$168,036		\$168,036
MD355-Clarksburg Shared Use Path		\$6,464			\$6,464
Mouth of Monocacy Road Bridge	\$3,160				\$3,160
Oak Drive/MD 27 Sidewalk		\$12,511			\$12,511

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Observation Drive Extended			\$115,593		\$115,593
Snouffer School Road North (Webb Tract)			\$15,047		\$15,047
District 3		\$45,777	\$16,351		\$62,128
County Service Park Infrastructure Improvements			\$1,489		\$1,489
East Gude Drive Roadway Improvements			\$6,027		\$6,027
Falls Road Bikeway and Pedestrian Facility		\$27,111			\$27,111
Life Sciences Center Loop Trail		\$12,901			\$12,901
Maryland/Dawson Extended			\$2,760		\$2,760
Needwood Road Bikepath		\$5,765			\$5,765
Watkins Mill Road Extended			\$6,075		\$6,075
District 4	\$16,567	\$45,868	\$68,099		\$130,534
Bicycle-Pedestrian Priority Area Improvements - Veirs Mill/Randolph		\$14,967			\$14,967
Bicycle-Pedestrian Priority Area Improvements - Wheaton CBD		\$9,995			\$9,995
Bowie Mill Road Bikeway		\$20,706			\$20,706
Brighton Dam Road Bridge No. M-0229	\$2,250				\$2,250
Dennis Ave Bridge M-0194 Replacement	\$7,850				\$7,850
Gold Mine Road Bridge M-0096	\$6,467				\$6,467
Montrose Parkway East			\$12,060		\$12,060
North High Street Extended			\$2,169		\$2,169
Sandy Spring Bikeway		\$200			\$200
Snouffer School Road			\$26,760		\$26,760
Summit Avenue Extension			\$27,110		\$27,110
District 5	\$4,850	\$112,102	\$16,739	\$101,550	\$235,241
Bicycle-Pedestrian Priority Area Improvements - Purple Line		\$12,617			\$12,617
Burtonsville Access Road			\$9,481		\$9,481
Dale Drive Shared Use Path and Safety Improvements		\$10,215			\$10,215
Fenton Street Cycletrack		\$11,561			\$11,561
Forest Glen Passageway		\$40,552			\$40,552
Franklin Avenue Sidewalk		\$3,300			\$3,300
Good Hope Road Shared Use Path		\$5,720			\$5,720
Metropolitan Branch Trail		\$20,662			\$20,662
Park Valley Road Bridge	\$4,850				\$4,850

RESJ Impact Statement

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Seminary Road Intersection Improvement			\$7,258		\$7,258
Silver Spring Green Trail		\$1,975			\$1,975
US 29 Pedestrian and Bicycle Improvements		\$5,500			\$5,500
White Oak Local Area Transportation Improvement Program				\$101,550	\$101,550
Grand Total	\$204,706	\$695,381	\$775,836	\$431,281	\$2,107,204

¹ Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools. <https://www.raciaequitytools.org/glossary>

² Ibid

³ “About Complete Streets,” Complete Streets Design Guide, Montgomery County Department of Planning, Last Updated July 29, 2022. <https://montgomeryplanning.org/planning/transportation/complete-streets/>

⁴ Ibid

⁵ “Montgomery County’s Goal to End Traffic Deaths,” Vision Zero, Montgomery County, MD, Accessed August 15, 2022. <https://www.montgomerycountymd.gov/visionzero/index.html>

⁶ Bill 24-22, Streets and Roads, Montgomery County Council, Montgomery County, Maryland, Introduced July 26, 2022. https://apps.montgomerycountymd.gov/ccllms/DownloadFilePage?FileName=2764_1_22382_Bill_24-2022_Introduction_20220726.pdf

⁷ Racial Equity and Social Justice Impact Statement for Bill 36-21, Office of Legislative Oversight, Montgomery County, Maryland, November 9, 2021. <https://montgomerycountymd.gov/OLO/Resources/Files/resjis/2021/Bill36-21.pdf>

⁸ “Using Complete Streets to Increase Equity,” Blog, ChangeLabSolutions, April 24, 2019. <https://www.changelabsolutions.org/blog/complete-streets>

⁹ Ibid

¹⁰ Maia Ingram, et. al., “Health Disparities, Transportation Equity and Complete Streets: a Case Study of a Policy Development Process through the Lens of Critical Race Theory,” Journal of Urban Health, December 2020. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7704855/>

¹¹ Deborah N. Archer, “‘White Men’s Roads Through Black Men’s Homes’: Advancing Racial Equity Through Highway Reconstruction,” Vanderbilt Law Review, October 2020. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3539889

¹² “The Unequal Commute,” Urban Institute, October 6, 2020. <https://www.urban.org/features/unequal-commute>

¹³ “A Legacy of Disenfranchisement and Underinvestment,” from Beyond Traffic 2045 (PDF page 102), U.S. Department of Transportation, January 9, 2017. <https://www.transportation.gov/policy-initiatives/beyond-traffic-2045-final-report>

¹⁴ “Grand Prize Winner – What Happened to Gibson Grove?,” C-SPAN StudentCam, March 2022. <http://www.studentcam.org/2022/GrandPrize-EasternMiddleSchool0421.htm>

¹⁵ Ibid

¹⁶ The Unequal Commute”

¹⁷ Regan Patterson, “New Routes to Equity: The Future of Transportation in the Black Community,” Congressional Black Caucus Foundation, September 2020. <https://www.cbccfinc.org/publications/transportation/new-routes-to-equity-the-future-of-transportation-in-the-black-community/>

¹⁸ The Unequal Commute”

¹⁹ Ibid

²⁰ “Dangerous by Design 2022,” Smart Growth America and National Complete Streets Coalition, July 2022. <https://smartgrowthamerica.org/dangerous-by-design/>

²¹ “Black Motorcyclists- Even in Helmets- More Likely to Die in Crashes,” News and Publications, John Hopkins Medicine, September 23, 2010. https://www.hopkinsmedicine.org/news/media/releases/black_motorcyclists_even_in_helmets_more_likely_to_die_in_crashes

RESJ Impact Statement

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²² “An Analysis of Traffic Fatalities by Race and Ethnicity,” Governors Highway Safety Association, June 2021.

<https://www.ghsa.org/resources/Analysis-of-Traffic-Fatalities-by-Race-and-Ethnicity21>

²³ Kea Wilson, “Study: Black Cyclists Die 4.5x More Often than White Cyclists,” StreetsBlogUSA, June 14, 2022.

<https://usa.streetsblog.org/2022/06/14/study-black-cyclists-die-4-5x-more-often-than-white-riders/>

²⁴ “Black Motorcyclists- Even in Helmets- More Likely to Die in Crashes”

²⁵ “Dangerous by Design 2022”

²⁶ “Equity and Crashes,” Montgomery County Vision Zero Data Explorer, Montgomery County, Maryland, November 2017.

<https://mctgov-gis.maps.arcgis.com/apps/MapJournal/index.html?appid=60410e6f22844d2cbbe619505cb6e7bb>

²⁷ Ibid

²⁸ “Equity Framework,” Montgomery County Vision Zero, Montgomery County Department of Transportation, December 2019.

<https://www.montgomerycountymd.gov/visionzero/Resources/Files/Equity%20Task%20Force%20Framework%20FINAL.pdf>

²⁹ Latinx people are not included in other racial groups within this table.

³⁰ Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

³¹ Racial Equity and Social Justice Impact Statement for Expedited Bill 19-22, Office of Legislative Oversight, Montgomery County, Maryland, June 29, 2022. <https://montgomerycountymd.gov/OLO/Resources/Files/resjis/2022/BillE19-22.pdf>

Racial Equity and Social Justice (RESJ) Zoning Text Amendment Statement

Office of Legislative Oversight

ZTA 22-10: STREETS AND ROADS

SUMMARY

The Office of Legislative Oversight (OLO) finds that Zoning Text Amendment 22-10, Streets and Roads, will have little to no impact on racial equity and social justice (RESJ) in the County.

PURPOSE OF RESJ STATEMENTS

The purpose of RESJ impact statements for zoning text amendments (ZTAs) is to evaluate the anticipated impact of ZTAs on racial equity and social justice in the County. Racial equity and social justice refer to a process that focuses on centering the needs, power, and leadership of communities of color and low-income communities with a goal of eliminating racial and social inequities.¹ Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.²

PURPOSE OF ZTA 22-10

As noted in the RESJ impact statement for Bill 24-22, Streets and Roads, the Montgomery County Planning Department published the Complete Street Design Guide (CSDG) in February 2021 to provide “policy and design guidance on the planning, design, and operation of county roadways.”³ The Complete Street Design Guide aligns the County’s approach to designing roads to the “Complete Streets” concept to prioritize safety, sustainability, and vitality.⁴ The Guide was also developed to support the County’s Vision Zero goal of eliminating serious and fatal collisions on County roads by the end of 2030.⁵

The primary purpose of Zoning Text Amendment 22-10, Streets and Roads is to revise the Zoning Ordinance to make the road types it references consistent with the Complete Streets Design Guide (CSDG). Of note, ZTA 22-10 is one of three proposals aimed at aligning County policy to the CSDG. If enacted:

- Zoning Text Amendment 22-10 will amend Chapter 59 of the County Code (the Zoning Ordinance) to provide a new definition for residential streets and to replace road types with new typologies that align with the CSDG;
- Bill 24-22 will amend Chapter 49 of the County Code to modernize street and road standards across the County to align with the CSDG; and
- Subdivision Regulation Amendment 22-01 will amend Chapter 50 of the County Code to update standards for intersections and replace street types with new typologies that also align with the CSDG.

At the request of the County Executive, ZTA -22-10 was introduced on July 26, 2022.

ANTICIPATED RESJ IMPACTS

Among the three policies proposed to align the County policy to the Complete Streets Design Guide (CSDG), OLO finds that ZTA 22-10 would have the most minor impact on RESJ as it centers on renaming road types to align typologies in the

RESJ Impact Statement

Zoning Text Amendment 22-10

Zoning Ordinance to the CSDG. More specifically, rather than changing transportation or road policies across the County as undertaken by Bill 24-22,⁶ ZTA 22-10 makes technical revisions to the Zoning Ordinance that do not impact RESJ.

Of note, OLO published a RESJ impact statement for Bill 24-22, Streets and Roads, on August 22, 2022.⁷ That RESJ impact statement describes the historical drivers of racial inequities in transportation infrastructure and available data on racial disparities in traffic injuries that could be impacted by Bill 24-22.⁸ Based on a review of data on budgeted roadway projects in the County's Capital Improvement Program,⁹ OLO finds the RESJ impact of Bill 24-22 to be indeterminant due to insufficient information on whether Black, Indigenous, and other people of color residents would be the primary beneficiaries of roadway projects developed with complete street standards.¹⁰ Yet, given the limited potential impact of zoning text amendments on capital funding for roadway projects, OLO finds that ZTA 22-10 offers little to no impact on RESJ in the County rather than an indeterminant RESJ impact as found for Bill 24-22.

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of zoning text amendments on racial equity and social justice is a challenging, analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement on the proposed zoning text amendment is intended to inform the Council's decision-making process rather than determine it. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the ZTA under consideration.

CONTRIBUTIONS

OLO staffer Elsabett Tesfaye, Performance Management and Data Analyst, drafted this racial equity and social justice impact statement with assistance from Elaine Bonner-Tompkins, Senior Legislative Analyst.

¹ Definition of racial equity and social justice adopted from "Applying a Racial Equity Lens into Federal Nutrition Programs" by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools <https://www.racialequitytools.org/glossary>

² Ibid

³ Racial Equity and Social Justice (RESJ) Impact Statement, Office of Legislative Oversight. Bill 24-22, Street and Roads [Racial Equity and Social Justice Impact Statement \(montgomerycountymd.gov\)](https://montgomerycountymd.gov/RacialEquityandSocialJusticeImpactStatement)

⁴ Ibid

⁵ Ibid

⁶ And perhaps by SRA 22-01 although an assessment of the impact on SRA 22-01 on transportation policy in the County is beyond the scope of OLO since the County's RESJ Act does not task OLO to develop RESJ impact statements for subdivision regulation amendments.

⁷ RESJ impact statement for Bill 24-22

⁸ Ibid

⁹ Montgomery County MD Capital Budget. 2023 County Council Approved Budget. July, 2022. <https://apps.montgomerycountymd.gov/BASISCAPITAL/Common/Index.aspx>

¹⁰ RESJ impact statement for Bill 24-22

From: djwilhelm@verizon.net <djwilhelm@verizon.net>
Sent: Friday, October 7, 2022 12:31 PM
To: Glass's Office, Councilmember <Councilmember.Glass@montgomerycountymd.gov>; Riemer's Office, Councilmember <Councilmember.Riemer@montgomerycountymd.gov>; Hucker's Office, Councilmember <Councilmember.Hucker@montgomerycountymd.gov>
Cc: Orlin, Glenn <Glenn.Orlin@montgomerycountymd.gov>
Subject: Re: Bill 24-22

[EXTERNAL EMAIL]

Greater Colesville Citizens Association

PO Box 4087
October 7, 2022

County Council T&E Committee
Attn: Tom Hucker, Chair
100 Maryland Ave

Re: Bill 24-22

Dear Chair Hucker and Fellow T&E Committee Members:

Sec 49-31. Classifications

(a) This section identifies downtown, town center, rural area and suburban areas.

This list is not consistent with the Thrive Plan (Figure 29). To avoid confusion, the Thrive-listed locations should be used in this document. However, the town center should only be those locations listed as medium centers in Thrive as a urban location. The smaller centers and villages should be identified as suburban in the bill.

We also want to point out this definition of "suburban" is different than what the Planning Department has been showing as suburban and urban for decades. In that other figure, the area inside the beltway and much of the area along I-270 and MD355 south of Germantown have been identified as urban. Since the density is greater in these residential areas than what had been classified as suburban, there probably should be some distinction here.

Sec 49-32 Design Standards

(h) Dealing with maximum target speed by road type.

The proposed change in maximum speed in areas without much development or without safety issues is too low. We understand the design standards apply only to county roads, not state or federal roads. The bill is applying a single standard to the entire length of a road independent of the nature of the road and surrounding development, which changes along its length. For example, Randolph Rd between Georgia Ave and New Hampshire Ave is currently a major highway where the speed limit is 35mph from Georgia Ave to near Glennan Ave and then increases to 40 mph. It changes again to 45 mph near Kemp Mill Rd and is unchanged the remainder of the way to New Hampshire Ave. (Note that the speed

limit is sometimes different dependent upon the direction of travel.) The proposed change for the entire length is 35mph as a Boulevard. The speed limit along this road currently matches the density. The speed limit needs to remain at the existing speeds because of the nature of the road and adjacent development.

The bill changes primary residential roads to a neighborhood connector designation but doesn't take into account the there are two types of primary residential roads. Some primary roads are in residential neighborhoods, while others are for higher speed and higher volumes, more like an arterial. Cannon Rd, Wolfe Dr, Kara Lane, Broadmore Rd, Tamarack Rd and Shaw Ave are examples of the first type and their speed limit should remain at 25 mph. Notley Rd, Old Columbia, Bonifant Rd east of Layhill Rd are examples of the second type and a proposed speed limit of 25 mph is too low. Today these roads are either 30 mph or 35 mph and need to remain at the current speed limit. The existing speed limit needs to be maintained because of the nature of the road and adjacent development.

The capacity of a road is directly linked to the speed vehicles travel. If drivers actually drove the speed limit suggested in this bill, the result would be increased congestion. That is contrary of what elected officials should be doing – they should be working to reduce congestion, not increase it. Without adequate enforcement the lower speeds will not be adhered to by the public assuming they consider it safe to travel at the higher speed. This approach would just be teaching the public to ignore the law, more than is already the case.

If safety is the reason for the lower speeds, then put lower speed limits in those short segments where safety dictates.

We understand the desire to reduce accidents involving pedestrians. Speed is only one factor. Another factor that the county appears to be ignoring is getting pedestrians out of the road. There are many pan-handlers walking in the streets, often between cars, and sometimes at night when driver visibility is poor. We observe many people walking in the street when there is a good sidewalk only a few feet away. There needs to be a campaign to get people to use available sidewalks.

In conclusion, do not change the speed limits that are currently set or try to have a single speed limit for the entire length of a road.

Thanks for considering our position.

Sincerely,

Daniel L. Wilhelm
GCCA President



RUSTIC ROADS ADVISORY COMMITTEE



WRITTEN STATEMENT ON
BILL 24-22 STREETS AND ROADS
SEPTEMBER 27, 2022

Rustic roads are historic and scenic roadways that reflect the agricultural character and rural origins of the County. The Rustic Roads Advisory Committee is made up of seven volunteer county residents who work extremely hard to support this program. Our statutory duty is to advise the County Council, the County Executive, and the Planning Board on matters concerning the rustic roads.

Bill 24-22, ZTA 22-10, and SRA 22-01 will make changes to three chapters of the County Code to implement the Complete Streets Design Guide. Our comments are regarding Bill 24-22, Streets and Roads, specifically Chapter 49 and the Rustic Roads Program.

We have five recommendations:

1. In Section 49-32 Design Standards, regarding maximum target speeds, we recommend adding Rustic and Exceptional Rustic Roads to the section on Country Roads with the same maximum target speeds of 20-35 mph.

Explanation

Giving Montgomery County Department of Transportation this option can help slow speeds on rustic roads as well as other roads, making our roads safer.

2. In Section 49-78 Rustic Road Classification and Reclassification, criterium 5, we ask that the word "accident" be replaced with the word "crash." The result would read, "the history of vehicle and pedestrian crashes on the road in its current configuration does not suggest unsafe conditions."

Explanation

This is consistent with the Council's Vision Zero policy and with current transportation planning.

3. In Section 49-80, Rustic Roads Advisory Committee, we ask that the committee membership be increased from seven (7) to nine (9).

Explanation

This would greatly help to reduce the extremely large number of volunteer hours members are currently putting in to keep up with the committee's responsibilities. In doing so, we hope to broaden representation on the committee in accordance with the Council's Racial Equity and Social Justice efforts. We recommend that these members be considered "at-large," and

language regarding the membership qualifications be stated as “representing the geographical, social, economic, recreational and cultural concerns of the residents of the County.”

4. Also in Section 49-80, we request that the words in (a)(1) “earning 50 percent or more of their income from farming” be deleted from the section.

Explanation

The committee does not have financial disclosure requirements for membership, and this provision discourages membership from a broad range of farmers. The current language calling for farmers to be owner-operators of commercial farmland is sufficient.

5. In Section 49-80, in (f) Advocacy, we ask that the word "Commission" be replaced with "Committee" to correctly reflect the name, Rustic Roads Advisory Committee.”

Explanation

This is a technical correction.

Thank you for providing the committee the opportunity to present our views.

You may reach the Committee through our staff coordinator, Darcy Buckley, at Darcy.Buckley@montgomerycountymd.gov.

Committee Members:

Laura Van Etten, Chair

N. Anne Davies, Barbara Hoover, Charles Mess,
Kamran Sadeghi, Dan Seamans, Robert Wilbur





RUSTIC ROADS ADVISORY COMMITTEE



WRITTEN STATEMENT ON BILL 24-22 STREETS AND ROADS OCTOBER 4, 2022

Rustic roads are historic and scenic roadways that reflect the agricultural character and rural origins of the County. The Rustic Roads Advisory Committee is made up of seven volunteer county residents who work extremely hard to support this program. Our statutory duty is to advise the County Council, the County Executive, and the Planning Board on matters concerning the rustic roads.

Bill 24-22, ZTA 22-10, and SRA 22-01 will make changes to three chapters of the County Code to implement the Complete Streets Design Guide. Our comments are regarding Bill 24-22, Streets and Roads, specifically Chapter 49.

The RRAC made five recommendations on September 27, 2002 regarding the part of the Code that covers the advisory committee directly. At our regular meeting on September 29, 2002, the committee unanimously voted to recommend legislative changes to allow the use of speed humps as a traffic calming device on rustic and exceptional rustic roads.

Residents living on the roads and nearby routinely report excessive speeds. We have reviewed an alternative traffic calming device called a Dynamic Speed Sign (flashing signs reporting the current speed of the vehicle) and while they may slow some vehicles, they do not seem visually appropriate on rustic roads, nor do they have any enforcement power as they do not contain speed cameras. Alternatively, speed humps are known by drivers to deliver an uncomfortable jolt if taken at excessive speed, and their signage is much more discreet, which would more in keeping with the rustic nature of the road. Thus, in order to address speed and safety concerns, the Committee respectfully requests that speed hump installations be allowed, on a case-by-case basis, on rustic and exceptional rustic roads (in addition to residential roads as currently allowed in the Code). The Committee would of course exercise advisory review as to whether to support the use of such installations in particular locations, along with the design details, as the RRAC does for all major maintenance projects on rustic and exceptional rustic roads.

We request that **Road Code Section 49-30 Traffic Calming** be amended to include rustic and exceptional rustic roads among the road designations where speed humps may be installed, and that the width of such speed humps on rustic and exceptional rustic roads be defined as appropriate for the specific road in the specific location. Rustic roads are unique and roads vary in width, so the current Code language specifying speed hump widths of 12 feet wide or 22 feet wide is not appropriate for these roads. Rustic and exceptional rustic roads should also be excepted from the requirement to meet all applicable regulations, as they are currently excepted from standard code and regulation requirements.

That section currently reads in subsection (b):

(b) Speed humps that are 12 feet wide may be built on any principal secondary residential street, secondary residential street, tertiary residential street, or alley, but must be spaced at least 500 feet from any other hump and 200 feet from any intersection. Speed humps that are 22 feet wide may be built on any primary residential street, but must be spaced at least 500 feet from any other hump and 200 feet from any intersection. Speed humps that are 22 feet wide may be built on a minor arterial, but must be spaced at least 750 feet from any other hump and 300 feet from any intersection. Before speed humps are installed in any road, all other requirements specified in applicable regulations must be met.

In summary, we request that the section be amended to add language stating that speed humps may be built on any rustic or exceptional rustic road and such speed humps shall be of a width that is appropriate for the road at the specific location.

Thank you again for providing the Committee the opportunity to present our recommendations. Should you have questions, you may reach the Committee through our staff coordinator, Darcy Buckley, at Darcy.Buckley@montgomerycountymd.gov.

Committee Members:

Laura Van Etten, Chair

N. Anne Davies, Barbara Hoover, Charles Mess,
Kamran Sadeghi, Dan Seamans, Robert Wilbur

Montgomery
Countryside
Alliance

ROYCE HANSON AWARD

• 2018 WINNER •



MONTGOMERY
PRESERVATION

MONTGOMERY PRIZE

• 2019 WINNER •

Eve Sandmeyer

10303 Leslie Street
Silver Spring, MD 20902
410.418.1010

Date: September 27, 2022

RE: Bill 24-22, Road Code

Dear Montgomery County Council Members,

I'm a Montgomery County resident of many decades, having grown up here and having raised my family here. And I'm an artist. One of my favorite subjects to paint is the Agricultural Reserve and the beautiful scenes along the Rustic Roads.

I'm writing in support of the proposed amendment to the Road Code to expand the Rustic Roads Advisory Committee, adding two more members. Before Covid, I was fortunate enough to participate with the committee on one of their educational retreats on beautiful, unique Martinsburg Road, and the amount of knowledge and work I saw from the committee members that day was overwhelming. The time commitment from the volunteers must have been enormous. They are doing incredible work and are a credit to you. I ask that you support them in getting the additional help they seek.

The Rustic Roads and the Agricultural Reserve are Montgomery County gems, and a credit to all of you in County leadership, past and present. Please strengthen these programs and this committee.

Thank you for all you do.

Eve Sandmeyer

From: **Caroline Taylor**

Dear council members and staff,

Rustic Roads are vital to the Agricultural Reserve and the farmers, residents, visitors and customers there. These roads also provide a sense of place, and a sense of wonder and delight to us all. With Bill 24-22 which amends County Code Chapter 49, Streets and Roads, we ask that you support and strengthen the Rustic Roads Program.

We are writing in support of the testimony from the Rustic Roads Advisory Committee to increase their membership from seven to nine members. We periodically attend the RRAC's meetings, and have observed that this group has an extraordinary amount of work to do for a group of volunteers.

Just this weekend, four of their current members and two past members spent most of the day at Linden Farm at our annual MCA Ride for the Reserve event--they set up a snazzy professional-looking tent with displays and information, they talk to residents, advocated for our Rustic Roads, and they assist with our ride. They had no staff--it was entirely volunteer hours. That single event must have involved at least 100 hours. Quite a number of members of the public were interested in learning more from them.

The RRAC is proposing that the two new members can represent a broader range of categories than they can currently. For instance, we have groups and organizations such as historic African American communities and churches in the Ag Reserve that don't have a civic association and can't currently qualify for membership. Providing these broader qualifications for membership would allow far greater representation and make it possible for underrepresented groups to participate.

The RRAC also proposes to remove the 50 percent income qualification for farmers. We support this request. A few years ago, the RRAC was directed to not recommend farmer members proposed by the Office of Agriculture because they did not meet this qualification. The Ag Advisory Committee has also needed to request permission for farmers to continue in a third term on their committee, because of the limited number of members they can find. New farmers, such as those in our Land Link program, would probably also be disqualified by the current requirement. With three farmer members on the committee, being able to find farmers who have time to support the program is vital, even if they need off-farm income to support their farms.

Warmly,

C



Caroline Taylor, Executive Director
Montgomery Countryside Alliance
P.O. Box 24, Poolesville, Maryland 20837
301-461-9831
<http://mocoalliance.org/>

"Whether we and our politicians know it or not, Nature is party to all our deals and designs, and she has more votes, a larger memory, and a sterner sense of justice than we do." ~Wendell Berry

Sept 27, 2022

Council President Alborno and Councilmembers Glass, Friedson, Hucker, Jawando, Katz, Navarro, Rice and Riemer
100 Maryland Avenue, 6th Floor
Rockville, Maryland 20850

RE: Testimony on Bill 24-22, ZTA 22-10, SRA 22-01

Dear President Alborno and Councilmembers,

I am a nearly lifelong resident of Montgomery County, and I represented the Planning Board on the Rustic Roads Advisory Committee from 2005-2021. I am writing as an individual who thinks we have an amazing County, but I have also witnessed some of our sausage being made.

I am writing in support of amending County Code Chapters 49, 50 and 59 to conform to the Complete Streets Design Guides you approved in 2021. I have the following comments:

- As written, Chapter 49, Streets and Roads, does not reflect the Complete Streets chapter on Green Streets. In order for this chapter to be implemented, I believe it must be reflected in Chapter 49, and thus I recommend that it be added.
- In addition, the Complete Streets Design Guide has a requirement for street trees that is not incorporated into Chapter 49. Currently, street trees are treated as if they were a liability, when they are a critical feature for pedestrians and cyclists, especially. Chapter 49 must be amended to reflect this requirement, and the MCDOT designs must be promptly updated to reflect the Complete Streets Design Guide cross sections.
- For Rustic Roads, I support the recommendations made by the Rustic Roads Advisory Committee, including:
 - Technical language updates and corrections regarding changing “accidents” to “crash” and “commission” to “committee”
 - Maximum target speeds for Rustic and Exceptional Rustic roads to match those of Country roads—i.e., 20-35 mph maximum target speeds
 - Expanding the committee from 7 to 9 members, and to have the 2 new members be at-large members as described by the RRAC to encourage representation from Rustic Roads users and residents who don’t currently have a voice on the committee. Representatives from churches, historical societies, cycling groups, young farmers and others could create room for people of color who represent a group or congregation, people who cannot afford to buy an Upcounty property but might be visitors and advocates of the Rustic Roads and Agricultural Reserve, etc.

- Remove the 50% income requirement for farmers. At one point, the County Attorney required the RRAC to exclude farmer members proposed by the Office of Agriculture because they had an off-farm or retirement income that exceeded the 50% threshold.

If you or staff has questions regarding my comments, I would be pleased to provide more information. I hope to attend worksessions.

Thank you for providing me with the opportunity to comment on these items, and for your continued support for the astonishing and glorious parts of our County, including our irreplaceable Rustic Roads and Agricultural Reserve.

Leslie Saville



AGRICULTURAL PRESERVATION ADVISORY BOARD

October 10, 2022

The Honorable Gabe Albornoz, President
The Honorable Tom Hucker, Chair, T&E Committee
Montgomery County Council
100 Maryland Avenue
Rockville, MD 20850

Re: Bill 13-22, ZTA 22-10, SRA 22-01, Streets and Roads

Dear Council President Albornoz and Chair Hucker,

The Montgomery County Agricultural Preservation Advisory Board – APAB is providing its comments on the above listed legislation.

The agricultural community continues to see the deemphasis of farming in the County. Contained within these pieces of legislation are recommendations to reduce the farmers voice at the table of government. On page 10 of the T&E committee pack for these legislative actions, there is a proposal to remove the 50% income requirement of owner-operators of commercial farmland to come from farming. Once again, the concern of farmers is ignored from the Rustic Road Advisory Committee. The agricultural community is tightly knit, and the farmers know who has applied for committee positions. Bona-fide farmers applied for positions on the Rustic Roads Advisory Committee and were not selected.

The farmers who applied for the committee met the income requirements and have served on other County committees. They have a unique perspective on farming in Montgomery County and how their operations are effected by rustic roads.

Another troubling proposal is the addition of two at-large members to the committee. When the program began, 60% of the members were farmer, with this proposal only 33% of the members would be farmers. It does not appear to be a committee concerned with the voice of the farmers.

The Rustic Roads Advisory Committee must represent the concerns of the agricultural community, most of the rustic roads are in the Agricultural Reserve. If this committee wants buy in from the farmers, don't waive the income requirement. If the income requirement is waived, the farmers will feel once again this program is not designed to help but to hinder their industry. The farming community feels these amendments would allow the Rustic Roads Committee to circumvent the current selection process, creating an opportunity to cherry pick individuals whom the committee deems qualified for the position based sharing their ideals and viewpoints.

The APAB asks the T&E committee to maintain the income requirement for farmer members of the Rustic Roads Advisory Committee and keep the committee membership at 7.

Sincerely,

Office of Agricultural Services

18410 Muncaster Road · Derwood, Maryland 20855 · 301/590-2823, FAX 301/590-2839



AGRICULTURAL PRESERVATION ADVISORY BOARD

Michael B. Jamison

Michael Jamison, Chairman

cc: Marc Elrich, County Executive
Jeremy Criss, Director, Office of Agriculture



AGRICULTURAL ADVISORY COMMITTEE

October 19, 2022

Gabe Albornoz, President
Tom Hucker, Chair of T&E Committee
Montgomery County Council
100 Maryland Avenue
Rockville, MD 20850

Dear Council President Albornoz and Chair Hucker: Bill 24-22 Streets and Roads

The Montgomery County Agricultural Advisory Committee-AAC met on October 18, 2022, and we agreed to provide these additional comments as a follow up to the T&E Committee work session on October 17, 2022, regarding Bill 24-22 Streets and Roads. The Rustic Roads Advisory Committee-RRAC recommends the installation of speed humps along Rustic Roads to reduce speeds and promote safety for all users of these roads.

The AAC believes that promoting reduced speeds and safety along all county roads needs to be a priority for all users of the roads. We understand the Committee members asked if farmers would have challenges getting their farm equipment over speed humps. Yesterday, I was traveling through Laytonsville along Sundown Road to Brink Road (which are not Rustic Roads) and I was pulling a fertilizer spreader for planting fall crops. When I approached the speed humps, I had to come to a complete stop and proceed very slowly as each wheel went up and over the speed hump to prevent damage to my farm equipment. The drivers behind me became very frustrated and they passed me which I believe created a very unsafe environment.

The AAC is concerned that speed humps installed along Rustic Roads will create a similar environment when the drivers of passenger vehicles do not respect the farmer slowly transporting farm equipment and these drivers proceed to pass the farmer and therefore defeat the intended purpose for why the speed humps were installed.

Please let us know if you have any questions.

Sincerely,

Doug Lechliden, Chairman

Cc: Marc Elrich, County Executive



Agricultural Services

www.montgomerycountymd.gov/agservices

18410 Muncaster Road · Derwood, Maryland 20855 · 301-590-2823 · FAX 301-590-2839

**Memorandum**

TO: The Honorable Gabe Albornoz
President
Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 501
Rockville, Maryland 20850

FROM: Jason Sartori, Chief
Countywide Planning & Policy Division

RE: Bill 24-22: Streets and Roads
Sidewalk and Bikeway Waivers

DATE: October 20, 2022

On October 17, 2022, the Transportation & Environment Committee reviewed comments provided by the Planning Board on Bill 24-22: Streets and Roads. During the work session, the committee requested that staff develop an amendment to the bill to address a comment about the Department of Permitting Service's (DPS) authority to waive sidewalks and bikeways that are conditions of approval by the Planning Board.

Planning Department Staff continues to support an amendment to the bill that prohibits DPS from granting a waiver for sidewalks or bikeways if building the improvement is a condition of a Planning Board approval. The conditions of approval included in a Planning Board resolution are determined after thoughtful consideration of the entire project including other interrelated conditions of approval and their various impacts. This process considers whether the cost of such improvements is proportional to the size of the project, as well as environmental conditions, site conditions (such as steep slopes and the presence of utilities), public safety concerns, and connectivity to other sidewalks and bikeways. Specifically, the Planning Board applies consistent, criteria-based approaches to evaluate whether sidewalk and bikeway waivers are appropriate, following deliberate analysis by Planning staff and an extensive multi-agency review of the development application.

Specifically, the Planning Board applies the following policies to determine the appropriateness of a waiver or payments in lieu of a sidewalk or bikeway improvement:

- **Policy 2022-01: De Minimis Criteria for Very Small Residential and Commercial Development Projects.** Creates an approach for determining when pedestrian and bicycle improvements along the property frontage of very small residential and commercial projects should be waived by the Planning Board, based on project size. In these instances, the policy provides a formula for calculating a de minimis payment to be made by the applicant. (See Attachment A.)
- **Policy 2022-02: Applicability of Payments in Lieu of Transportation Frontage Improvements.** Creates an approach for determining when payments can be made in lieu of constructing pedestrian and bicycle improvements along a property frontage that identifies severe environmental impacts and lack of connectivity for some bikeway types as a reason for permitting a payment. (See Attachment B.)
- **Growth and Infrastructure Policy (GIP) and Local Area Transportation Review (LATR) Guidelines.** The GIP allows for a payment in lieu of an off-site transportation improvement if both the Planning Board and the Department of Transportation (MCDOT) agree that constructing the improvement is not practicable due to conditions outside the applicant's control. Meanwhile, the LATR Guidelines provide the Board with guidance on determining which mitigation improvements to require of the applicant.

Additionally, Section 49-32 explicitly provides the Planning Board with the authority to waive design standards (such as the integration of bikeways or sidewalks in the active zone of a roadway, as identified in the Complete Streets Design Guide) from a context-sensitive perspective that would take into account existing pedestrian and bicycle facilities as well as site conditions. This authority is provided "unless the Executive or the Executive's designee notifies the Board why approving the waiver would significantly impair public safety."

Furthermore, DPS participates in the Development Review Committee (DRC) process (along with other Executive Branch agencies such as MCDOT and the Department of Environmental Protection) and can voice concerns over sidewalk or bikeway requirements to Planning Staff throughout that process.

Finally, the Planning Board's resolution approving a development application includes findings related to the need for certain improvements and their impact on public safety and findings pertaining to the project's conformance to master plans. These findings should not be subject to dismissal by another agency. The details of the resolution are the result of a deliberate and thorough process that includes multiple agencies, a public hearing and a decision by the 5-member Board. The Board's approval is contingent on the applicant successfully meeting the requirements in the resolution. The process and the Board's published resolution also provide a very transparent record for the public that provides community members with an assurance of

what to expect from a development project. Allowing DPS to waive those requirements without similar due process can betray public trust in the development process.

Recent Sidewalk Waivers

A review of recent sidewalk waivers shows a total of five waivers granted by DPS over the past two years. These waivers involved residential subdivisions of three or fewer units, and those approved by the Planning Board were approved prior to adoption of Policy 2022-01 and Policy 2022-02. Today, similar applications would be reviewed under the new policies to determine the appropriateness of a de minimis payment or payment of a fee in lieu of constructing a sidewalk. In those very limited instances where a developer of a small residential project identifies an issue that could not have been foreseen, the applicant should be required to request the Planning Board amend the conditions of approval.

While recent applications of DPS's waiver authority have been limited to these small projects, both existing county code and Bill 24-22 as introduced and amended do not restrict the ability of DPS to waive these requirements for larger developments approved by the Planning Board.

Council Staff's Recommendations

Council staff has recommended two modifications to Section 49-40 of County Code:

- Requiring DPS to consult with Planning Staff prior to issuing a sidewalk or bikeway waiver. Planning Staff supports this amendment, notwithstanding our position to not allow DPS the authority to waive any requirement of a Planning Board condition of approval.
- Adding "or if the Director finds that [the bikeway or sidewalk] would cause significant environmental impact" as a reason for DPS to waive a bikeway or sidewalk. Planning Staff disagrees with designating DPS as the final arbiter of determining environmental impact and notes that the environmental impacts are fully evaluated and considered in the Planning Board's review of development applications already.

Planning Staff Recommendations

Planning Staff continues to recommend removing DPS's authority to waive a sidewalk or bikeway requirement contained in a condition of Planning Board approval by adding the following to Section 49-40(b)(1)(B) of County Code:

(iii) the required sidewalks or bikeways are a condition of a Planning Board approval.

However, if this is not supported by the Council, an alternative would be to limit DPS's authority to waive a requirement contained in a condition of Planning Board approval for a residential

project if the project includes three or fewer units, in line with how the waiver has more recently been applied by DPS. Specifically:

(iii) the required sidewalks or bikeways are a condition of a Planning Board approval for a project with more than 3 residential units.

Either way, it is likely that a corresponding update would be required to Section 49-33(d)(1), which identifies times when a permittee is not required to construct a sidewalk or bikeway:

[(D)](E) any sidewalk or sidepath on a [secondary or tertiary residential] neighborhood street, neighborhood yield street, or service drive where the Department of Permitting Services, consistent with Section 49-40, finds that a sidewalk or sidepath is infeasible, will not connect [potentially] to other sidewalk segments within the foreseeable future, or qualifies for fee payments in lieu of construction[[under Section 49-40]].

Such a change would clarify that conformance with Section 49-40 (potentially including Planning Staff's recommendation above) is required in all cases, not just when a project qualifies for payments in lieu of construction.



MONTGOMERY COUNTY PLANNING DEPARTMENT

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

CODE INTERPRETATION POLICY

DATE	SECTION OF CODE	TITLE OF CODE/SUBSECTION/POLICY DEVELOPMENT STANDARDS
March 3, 2022	50-4.3.A 50-4.3.E.3.b	De Minimis Criteria for Very Small Residential and Commercial Development Projects
CODE PROVISION		
50-4.3.A Relation to master plan.		
1. A preliminary plan must substantially conform to the applicable master plan or Urban Renewal Plan, including maps and text. However, if a site plan is not required under Chapter 59, Article 59-7.3.4, the Board may find that events have occurred to render the relevant master plan or Urban Renewal Plan recommendation no longer appropriate.		
50-4.3.E.3.b Existing public roads		
b. <i>Existing public roads.</i> In a preliminary plan application containing lots fronting on an existing State, County, or municipally maintained road, the subdivider must provide any additional required right-of-way dedication and reasonable improvement to the road in front of the subdivision, including sidewalks and bicycle facilities, as required by Master Plan, the Road Design and Construction Code or by a municipality, whichever applies.		
STATEMENT/BACKGROUND OF ISSUE		
Over the past few years, the Department has received requests for waivers from constructing all or parts of pedestrian and bicycle improvements along the property frontage as part of very small residential and commercial projects because these improvements may not be reasonable or proportional to the impact of the project on public infrastructure. The Planning Board needs a consistent, criteria-based approach for determining when to approve these requests and how to set a de minimis payment.		
AGENCY INTERPRETATION/POLICY		
<u>Criteria 1:</u> Projects with 5 or fewer residential units may make a de minimis payment instead of constructing master-planned bikeable shoulders and conventional bike lanes equal to:		
<i>Cost per linear foot X # of proposed units X the "Lot width at front building line (min)"</i>		
<u>Criteria 2:</u> Projects with 3 or fewer residential units may make a de minimis payment instead of constructing master-planned sidepaths and required sidewalks when these improvements would:		

- Require relocating utilities, utility poles and stormwater facilities or require large retaining walls.
- Have an excessive length, defined as:
 - Projects with one frontage: frontage length $> 2 \times \#$ of proposed units \times the “Lot width at front building line (min)”
 - Projects with multiple frontages: frontage length $> 3 \times \#$ of proposed units \times the “Lot width at front building line (min)”

The de minimis payment will be equal to:

Cost per linear foot \times # of proposed units \times the “Lot width at front building line (min)”

Criteria 3: Commercial projects may make a de minimis payment instead of constructing pedestrian and bicycle frontage improvements if they meet the following conditions:

New buildings and additions:

- $< 5,000$ square feet, and
- < 40 net new peak hour person trips

Changes in use:

- No additional square footage, and
- < 40 net new peak hour person trips

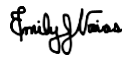
The de minimis payment will be equal to: *Cost per linear foot \times length of frontage*

Additional De Minimis Findings

Planning Staff may recommend a de minimis payment in lieu of constructing a complete or partial frontage improvement when the improvement would create a similar burden to that identified in Criteria 1, Criteria 2 and Criteria 3.

The de minimis payment will be equal to: *Cost per linear foot \times length of frontage*

Establishment of De Minimis Payments: The Planning Board will adjust the de minimis payment every odd-numbered year. The de minimis payment will be \$115.20 per linear foot for FY 22 and FY 23.

INTERPRETATION/POLICY NO.	DATE	M-NCPPC LEGAL STAFF
M-NCPPC 2022-01	03/04/2022	
	DATE	DIRECTOR
	03/04/2022	Gwen Wright
	DATE	PLANNING BOARD
	03/06/2022	Casey Anderson



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

CODE INTERPRETATION POLICY

DATE	SECTION OF CODE	TITLE OF CODE/SUBSECTION/POLICY DEVELOPMENT STANDARDS
March 3, 2022	50-4.3.A 50-4.3.E.3.b 49-32(a) 49-33(e)	Applicability of Payments in Lieu of Transportation Frontage Improvements
CODE PROVISION		
50-4.3.A Relation to master plan.		
<p>1. A preliminary plan must substantially conform to the applicable master plan or Urban Renewal Plan, including maps and text. However, if a site plan is not required under Chapter 59, Article 59-7.3.4, the Board may find that events have occurred to render the relevant master plan or Urban Renewal Plan recommendation no longer appropriate.</p>		
50-4.3.E.3.b Existing public roads		
<p>b. <i>Existing public roads.</i> In a preliminary plan application containing lots fronting on an existing State, County, or municipally maintained road, the subdivider must provide any additional required right-of-way dedication and reasonable improvement to the road in front of the subdivision, including sidewalks and bicycle facilities, as required by Master Plan, the Road Design and Construction Code or by a municipality, whichever applies.</p>		
49-32 (a)		
<p>The design standards adopted under this Article govern the construction or reconstruction of any County road except Rustic Roads and Exceptional Rustic Roads. If the Planning Board, in approving a subdivision or site plan, finds that a waiver from any applicable design standard is necessary to promote context-sensitive design of a specific road, the Executive or the Executive's designee must adopt the Board's recommendation unless the Executive or the Executive's designee notifies the Board why approving the waiver would significantly impair public safety. The County Council may adopt alternative standards for a specific road constructed or reconstructed in a project in the approved capital improvements program.</p>		
49-33(e)		
<p>(1) If a lot or lots front on a public road, the permittee must install sidewalks, master-planned bikeways, ramps, curbs, and gutters, except any sidewalk:</p>		

- (A) in front of a lot that is larger than 25,000 square feet for a single-family detached dwelling in a rural zone;
- (B) on any roadway classified as exceptional rustic, rustic, country arterial, or country road;
- (C) on a tertiary residential street, or in an environmentally sensitive area with limits on the amount of impervious surface allowed, if in either case the Planning Board finds that a sidewalk is unnecessary for pedestrian movement; or
- (D) on a secondary or tertiary residential street or service drive where the Department of Permitting Services finds that a sidewalk will not connect potentially to other sidewalk segments.

(2) However, the Planning Board may require the applicant to install sidewalks, ramps, curbs, and gutters if the Board finds, as a condition of approval of a preliminary subdivision plan or site plan, that sidewalks, bikeway connections, ramps, curbs, and gutters at that location are necessary to allow access:

- (A) to a sidewalk or bikeway;
- (B) to a bus or other public transit stop;
- (C) to an amenity or public facility that will be used by occupants of the site or subdivision; or
- (D) by persons with disabilities.

Before the Planning Board approves any requirement under this paragraph, the Board must give the Departments of Permitting Services and Transportation a reasonable opportunity to comment on the proposed requirement.

STATEMENT/BACKGROUND OF ISSUE

Over the past few years, the Department has received requests to make a payment for all or parts of pedestrian and bicycle improvements along a property's frontage. The Planning Board needs a consistent, criteria-based approach for determining when payments can be made in lieu of constructing frontage improvements.

AGENCY INTERPRETATION/POLICY

Applicability of Payments

Applicants may request a full payment in lieu of constructing a transportation frontage improvement if the improvement would:

- Lead to severe environmental impacts in areas with wetlands, floodplains, significant grades or forest conservation easements.
- Require removing a lane of traffic for a very short distance to construct separated bike lanes or conventional bike lanes in a manner that MCDOT or SHA determine to be unsafe.

Applicants may request a partial payment and construct a partial improvement if:

- The improvement is separated bike lanes or conventional bike lanes that would be constructed outside of the paved area of the roadway and would not connect to intersections of roadways, bikeways or walkways in the near term.

- The Montgomery County Department of Transportation (MCDOT) cannot resolve timing issues between the development project and a capital project.
- The Maryland State Highway Administration (MDSHA) is unwilling to issue an access permit for a frontage improvement.

For projects where partial payments and partial improvements are recommended, applicants are required to prepare the site for the future frontage improvement and pay the difference between the full cost of the project and the cost of the partial frontage improvement. Site preparation includes dedicating land or establishing other necessary easements to accommodate the future improvement, grading the site and ensuring that utilities, stormwater management facilities, streetscape improvements, landscaping and other features do not conflict with the future implementation of the frontage improvement. Where the frontage improvement is two-way separated bike lanes outside of the roadway, the applicant may instead be required to construct a sidepath as an interim improvement while facilitating future implementation of the permanent frontage improvement by others.

Payment Determination


Payment amounts will be determined by MCDOT based on the “permanent” design condition as defined by the Complete Streets Design Guide, the Bicycle Master Plan and other relevant master or sector plans. The “permanent” design condition includes:

- Separated bike lanes at an “intermediate level”
- Protected intersections
- Breezeways constructed to public road standards

Condition of Approval

The condition of approval will include:

- An estimated cost of the full or partial payment that is indexed to the Federal Highway Administration’s (FHWA) National Highway Construction Cost Index from the mailing date of the Planning Board resolution to the date of the application for the first above-grade building permit or right-of-way permit (whichever comes first).
- The type of transportation improvement: transit, bikeway or pedestrian.
- The target policy area(s): the same policy area, or—for a Red policy area or an Orange town center policy area—either in that area or an adjacent one.

INTERPRETATION/POLICY NO.	DATE	M-NCPPC LEGAL STAFF
M-NCPPC 2022-02	03/08/2022	
	DATE	DIRECTOR
	03/08/2022	<i>Gwen Wright</i>
	DATE	PLANNING BOARD
	03/08/2022	<i>Casey Anderson</i>



DEPARTMENT OF PERMITTING SERVICES

Marc Elrich
County Executive

Mitra Pedoeem
Director

MEMORANDUM

TO: The Honorable Gabe Alborno, President
Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 501
Rockville MD 20850

FROM: Linda Kobylski, Division Chief
Department of Permitting Services
Division of Land Development

RE: Bill 24-22: Streets and Roads
Sidewalk and Bikeway Waivers

DATE: October 20, 2022

In response to the MNCPPC memorandum dated October 20, 2022, regarding the ability of Department of Permitting Services (DPS) to grant a waiver in lieu of constructing a sidewalk or bikeway, DPS offers the following and thank you for your consideration in advance:

Planning Department Staff continues to support an amendment to the bill that prohibits DPS from granting a waiver for sidewalks or bikeways if building the improvement is a condition of a Planning Board approval. The conditions of approval included in a Planning Board resolution are determined after thoughtful consideration of the entire project including other interrelated conditions of approval and their various impacts. This process considers whether the cost of such improvements is proportional to the size of the project, as well as environmental conditions, site conditions (such as steep slopes and the presence of utilities), public safety concerns, and connectivity to other sidewalks and bikeways. Specifically, the Planning Board applies consistent, criteria-based approaches to evaluate whether sidewalk and bikeway waivers are appropriate, following deliberate analysis by Planning staff and an extensive multi-agency review of the development application.

DPS Response: *When a construction permit is submitted to DPS, staff refer to the Planning Board resolution and will enforce any requirement to construct a sidewalk or bikeway if appropriate. Of note, DPS staff visit the proposed site and perform an evaluation based on current conditions. A property may be subdivided years before an application to construct is actually submitted to DPS. During this timeframe, many conditions in the field could change. DPS staff also provide thoughtful consideration of the importance of the requirement as well as whether the construction makes sense from a safety, environmental and financial perspective. We evaluate whether the sidewalk will connect to another public sidewalk or if it will be a stand-alone sidewalk with no connection to any existing facility. DPS also considers if there is a nearby public school, bus stop, or any other transportation facility where the sidewalk would provide needed safety and pedestrian access.*



Specifically, the Planning Board applies the following policies to determine the appropriateness of a waiver or payments in lieu of a sidewalk or bikeway improvement:

Policy 2022-01: De Minimis Criteria for Very Small Residential and Commercial Development Projects. Creates an approach for determining when pedestrian and bicycle improvements along the property frontage of very small residential and commercial projects should be waived by the Planning Board, based on project size. In these instances, the policy provides a formula for calculating a de minimis payment to be made by the applicant. (See Attachment A.)

- **Policy 2022-02: Applicability of Payments in Lieu of Transportation Frontage Improvements.** Creates an approach for determining when payments can be made in lieu of constructing pedestrian and bicycle improvements along a property frontage that identifies severe environmental impacts and lack of connectivity for some bikeway types as a reason for permitting a payment. (See Attachment B.)

- **Growth and Infrastructure Policy (GIP) and Local Area Transportation Review (LATR) Guidelines.** The GIP allows for a payment in lieu of an off-site transportation improvement if both the Planning Board and the Department of Transportation (MCDOT) agree that constructing the improvement is not practicable due to conditions outside the applicant's control. Meanwhile, the LATR Guidelines provide the Board with guidance on determining which mitigation improvements to require of the applicant.

DPS Response: *The above policies were adopted in 2022. Many projects that obtain Planning Board approval do not contact DPS for a construction permit immediately. Financing and other factors could delay start of construction for years. These older applications would not have been subject to the above policies. If the property owner were required to return to the Planning Board for waiver consideration, further delays to the project will occur. Additionally, there could be financial impacts like legal, engineering, and environmental costs involved. For the individual homeowner or small business owner, this could lead to an extreme financial hardship.*

Additionally, Section 49-32 explicitly provides the Planning Board with the authority to waive design standards (such as the integration of bikeways or sidewalks in the active zone of a roadway, as identified in the Complete Streets Design Guide) from a context-sensitive perspective that would take into account existing pedestrian and bicycle facilities as well as site conditions. This authority is provided "unless the Executive or the Executive's designee notifies the Board why approving the waiver would significantly impair public safety."

DPS Response: *DPS is not questioning the Planning Board's authority to impose these requirements. However, many physical obstacles are unknown during the Planning Board's review. These issues become more obvious during review of construction drawings and permit issuance and even more so during the actual construction. DPS needs to maintain the ability to make these timely decisions so that construction can proceed without delay and reduce any further financial burden to the property owner. Furthermore, DPS is a regulatory agency; public safety is paramount. DPS does not grant waivers to simply save the property owner the inconvenience or cost of constructing needed public safety elements. The limited number of sidewalk waivers DPS has granted in the last two years, is evidence that we take the Planning Board's decision seriously and only allow a fee in lieu of construction when absolutely necessary based on current site conditions.*

Furthermore, DPS participates in the Development Review Committee (DRC) process (along with other Executive Branch agencies such as MCDOT and the Department of Environmental Protection) and can voice concerns over sidewalk or bikeway requirements to Planning Staff throughout that process.

DPS Response: *We agree that DPS staff participate in the DRC. Again, conditions change from Planning Board resolution until actual construction applications are submitted to DPS and those changes could severely impact the ability or reasonableness of enforcing the construction of a sidewalk or bikeway.*

Finally, the Planning Board's resolution approving a development application includes findings related to the need for certain improvements and their impact on public safety and findings pertaining to the project's conformance to master plans. These findings should not be subject to dismissal by another agency. The details of the resolution are the result of a deliberate and thorough process that includes multiple agencies, a public hearing and a decision by the 5-member Board. The Board's approval is contingent on the applicant successfully meeting the requirements in the resolution. The process and the Board's published resolution also provide a very transparent record for the public that provides community members with an assurance of what to expect from a development project. Allowing DPS to waive those requirements without similar due process can betray public trust in the development process.

DPS Response: *As stated earlier, DPS does not simply ignore the Planning Board resolution. We research, visit the site, and make a thoughtful determination before granting a waiver. The current Code provides DPS this ability and we do not feel that authority has been misused.*

Recent Sidewalk Waivers

A review of recent sidewalk waivers shows a total of five waivers granted by DPS over the past two years. These waivers involved residential subdivisions of three or fewer units, and those approved by the Planning Board were approved prior to adoption of Policy 2022-01 and Policy 2022-02. Today, similar applications would be reviewed under the new policies to determine the appropriateness of a de minimis payment or payment of a fee in lieu of constructing a sidewalk. In those very limited instances where a developer of a small residential project identifies an issue that could not have been foreseen, the applicant should be required to request the Planning Board amend the conditions of approval.

While recent applications of DPS's waiver authority have been limited to these small projects, both existing county code and Bill 24-22 as introduced and amended do not restrict the ability of DPS to waive these requirements for larger developments approved by the Planning Board.

DPS Response: *As stated earlier, DPS does not simply ignore the Planning Board resolution. We research, visit the site, and make a thoughtful determination before granting a waiver. The current Code provides DPS this ability and we do not feel that authority has been misused. Again, the small number of waivers granted in the last two years is minimal.*

Council Staff's Recommendations

Council staff has recommended two modifications to Section 49-40 of County Code:

- Requiring DPS to consult with Planning Staff prior to issuing a sidewalk or bikeway waiver. Planning Staff supports this amendment, notwithstanding our position to not allow DPS the authority to waive any requirement of a Planning Board condition of approval.
- Adding "or if the Director finds that [the bikeway or sidewalk] would cause significant environmental impact" as a reason for DPS to waive a bikeway or sidewalk. Planning Staff disagrees with designating DPS as the final arbiter of determining environmental impact and notes that the environmental impacts are fully evaluated and considered in the Planning Board's review of development applications already.

DPS Response: *DPS agrees with the Council staff recommendation, bullet 1 above. We consider this a good compromise and will ensure Planning staff is consulted before any final decision to grant a waiver is approved. DPS does not grant waivers at all for large scale projects.*

Planning Staff Recommendations

Planning Staff continues to recommend removing DPS's authority to waive a sidewalk or bikeway requirement contained in a condition of Planning Board approval by adding the following to Section 49-40(b)(1)(B) of County Code:

(iii) the required sidewalks or bikeways are a condition of a Planning Board approval.

However, if this is not supported by the Council, an alternative would be to limit DPS's authority to waive a requirement contained in a condition of Planning Board approval for a residential project if the project includes three or fewer units, in line with how the waiver has more recently been applied by DPS. Specifically:

(iii) the required sidewalks or bikeways are a condition of a Planning Board approval for a project with more than 3 residential units.

Either way, it is likely that a corresponding update would be required to Section 49-33(d)(1), which identifies times when a permittee is not required to construct a sidewalk or bikeway:

[(D)](E) any sidewalk or sidepath on a [secondary or tertiary residential] neighborhood street, neighborhood yield street, or service drive where the Department of Permitting Services, consistent with Section 49-40, finds that a sidewalk or sidepath is infeasible, will not connect [potentially] to other sidewalk segments within the foreseeable future, or qualifies for fee payments in lieu of construction[[under Section 49-40]].

Such a change would clarify that conformance with Section 49-40 (potentially including Planning Staff's recommendation above) is required in all cases, not just when a project qualifies for payments in lieu of construction.

DPS Response: *See above response. DPS supports Council staff recommendation to:*

"Requiring DPS to consult with Planning Staff prior to issuing a sidewalk or bikeway waiver. Planning Staff supports this amendment, notwithstanding our position to not allow DPS the authority to waive any requirement of a Planning Board condition of approval."



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

HANS RIEMER
COUNCILMEMBER AT-LARGE

MEMORANDUM

To: T&E Committee
From: Councilmember Hans Riemer
Date: May 2, 2016
Re: Complete Streets Guidelines

Responding to greater demand for multi-modal transportation networks by our residents, the Council passed Bill 33-13 almost two years ago. These reforms are making our roads safer for bicyclists, pedestrians, and motorists alike.

But to ensure further progress and to allow for greater flexibility in implementation, the bill also required the County Executive to transmit complete street guidelines by Method 2 regulation 18 months after passage of the bill, which is June 1, 2016. The guidelines were to supersede the initial reforms of Bill 33-13 and were to be modeled on the complete street guidelines of Boston, Chicago, and Dallas.

The County Executive's recommended FY17 Budget, however, does not include funding to complete these guidelines period, much less by June 1, 2016. This is not to say that DOT hasn't made progress on multi-modal design since the legislation was adopted. The department's impressive work in White Flint and Silver Spring, among other places, demonstrates a positive shift in the department's culture.

That said, the County and its residents stand to realize great value if the work of Bill 33-13 is completed by developing complete street guidelines. First, formally approved guidelines would institutionalize the "cultural changes" at DOT and ensure that they endure. Second, the guidelines would be considerably more comprehensive than the limited number of changes made by Bill 33-13. The current roadway standards present a number of obstacles to progress rather than facilitating it:

- The roadway standards created in 2008 are more progressive than the old standards, but they were the result of compromise with the former leadership of MCDOT and therefore not as progressive as can be achieved with the current leadership.
- The goal was to supersede the existing roadway standards when the new standards were created in 2008, but MCDOT has retained most of the old standards, tripling the number of standards but still not covering all our roadway types. These standards have not been revised to reflect the changes required by Bill 33-13.
- Specifying roadway standards in our master plans was intended to provide better direction on what the intended roadway typical section should be, but if there is any change – such as including a shared use path that is not covered in any of the new roadway standards – that change cannot be specified.
- A set of Complete Streets guidelines that used a kit-of-parts approach that allowed the assemblage of the desired roadway elements would better reflect what DOT is actually doing and would be truly more context-sensitive.

Accordingly, I respectfully request that the T&E Committee consider adding \$264,000 (\$240,000 for the consultant and \$24,000 for additional DOT staff time) to the reconciliation list to fund the development of these guidelines. This proposal envisions using the well-regarded guidelines from Boston, Dallas, and Chicago as a framework and applying them to our County's unique circumstances. As such, this proposal represents a significant savings from previous estimates. Thank you for your consideration of this request.