



THE MARYLAND-NATIONAL CAPITAL PARK & PLANNING COMMISSION

June 27, 2003

Memorandum

To: The Montgomery County Planning Board

From: Karl Moritz, Research Manager, 301-495-1312 *KARL*

Re: Worksession #4 on the Annual Growth Policy "Policy Element"

Review of a Draft "AGP Policy Concept" to be Released for Public Comment

The Montgomery County Planning Board has been developing a new approach for implementing the adequate public facilities ordinance (APFO) through the Annual Growth Policy (AGP). The Planning Board has scheduled a public hearing for July 10, 2003 at 7:30 PM.

In order to help the public make the most of the opportunity to comment on the Board's proposals, staff is preparing an information booklet that reviews:

- The history and role of the adequate public facilities ordinance and the Annual Growth Policy;
- How the current AGP works;
- The County Council's directive to the Planning Board to engage in a "top-to-bottom" review of the AGP;
- The Planning Board's basic findings about growth and how it should be managed in the future; and
- Discussion of each element of the Board's proposed "AGP Policy Concept."

Staff regrets that we have not completed the information booklet in time for the Board's packet. However, please find attached the first 9 pages, plus the back page, of staff's draft. These pages will give you a good idea of the staff's suggested approach. A complete draft will be delivered on Monday, June 30.

Information Requested by the Planning Board

The Planning Board requested comparative information about impact tax rates charged by localities in the state of Maryland. Attached at circles 3 and four are tables

prepared by County Council staff when impact tax rate changes were proposed this past spring (The Council deferred discussion of new or revised impact taxes until the fall to be discussed in conjunction with the AGP).

As the Planning Board noted, impact tax rates do not fully describe the relative tax/regulatory burden imposed by localities on development. In addition, tax credit provisions may vary and can have a significant impact on the amount of money any particular developer pays.

During its worksessions, the Planning Board has discussed the pipeline of approved development and how to address the fact that this large component of future growth is already “beyond” adequate public facilities tests. Two issues raised by the Board required additional information:

- The Planning Board is interested in limiting the pace of subdivision approvals to be in concert with a desired rate of development activity (completions). To help inform this issue, staff analyzed the approval date of development projects completed in 2002. The results are attached at circles 5 and 6. In general, there is no clear pattern: recent *residential* completions are drawn from pipeline projects approved in every year since 1989; recent *commercial* completions are drawn from projects approved throughout the 1990s.
- Commissioner Robinson raised the issue of allowing findings of adequate public facilities to be transferred from one subdivision to another. Staff noted that we have a mechanism in place to accomplish such transfers; at this time it is available only in the Silver Spring CBD. However, the language was originally drafted so that it could apply Countywide. Staff attaches the current language at circles 7, 8, and 9.

Residential Impact Tax/Fee Rates (tax/dwelling unit)

County	Detached	Townhouses	Apartments
County District	\$2,100	\$2,100	\$1,100
County District @ Metro Stations	\$1,050	\$1,050	\$550
Clarksburg	\$2,753	\$2,753	\$1,981
Germantown	\$2,492	\$2,492	\$1,794
Eastern Montgomery	\$1,727	\$1,727	\$1,243
Montgomery (proposed-transp)*	\$3,300	\$2,753	\$1,981
Montgomery (proposed-schools)	\$3,920	\$3,220	\$1,960**
Anne Arundel	\$4,069	\$2,809	\$2,068
Calvert	\$3,950	\$2,950	\$1,950
Caroline	\$1,500	\$1,500	N/A
Carroll	\$4,744	\$3,595	\$1,925
Charles	\$9,700	\$9,200	\$7,000
Frederick***	\$7,446	\$4,811	\$1,518
Howard****	\$2,640	\$1,200	\$880
Prince George's*****	\$7-12,000	\$7-12,000	\$7-12,000
Queen Anne's	\$5,744	\$3,397	\$3,397
St. Mary's	\$4,500	\$4,500	\$4,500

* Metro Station Policy Area rates would be half these rates. The proposed rate for multi-family senior housing is \$573/unit.

** The proposed rate for multi-family units that are neither high-rise nor senior-only units. The proposed rates for multi-family high-rise and senior are \$770/unit and \$0/unit, respectively.

*** For its road excise tax, Frederick County exempts the first 700 sq.ft., charges 10 cents/sq.ft. for the next 700 sq.ft., and charges 25 cents/sq.ft. above 1,400 sq.ft. These costs per unit are based on the median size of dwelling units in each category in Montgomery County: 3,300 sq.ft. for single-family detached units; 1,500 sq.ft. for townhouses; and 1,100 sq.ft. for multi-family units (all areas not including basements).

**** Howard County charges \$.80/sq.ft. These costs per unit are based on the median size of dwelling units in each category in Montgomery County (see above).

***** \$7,000/unit for units inside the Beltway and \$12,000/unit for units outside the Beltway.

Non-Residential Impact Tax/Fee Rates (tax/1,000 sq.ft. of gross floor area).

County	Office	Retail	Industrial
County District	\$1,500	\$1,500	\$1,000
County District @ Metro Stations	\$750	\$750	\$500
Clarksburg	\$2,000	\$5,610	\$1,000
Germantown	\$2,000	\$5,080	\$1,000
Eastern Montgomery	\$2,000	\$3,520	\$1,000
Montgomery (proposed)	\$2,500	\$3,500	\$1,250
Anne Arundel (< 100K sq.ft.)	\$1,789	\$2,507	\$391
Anne Arundel (100-199K sq.ft.)	\$1,449	\$2,507	\$391
Anne Arundel (200K> sq.ft.)	\$1,107	\$2,507	\$391
Calvert	\$110	\$110	\$110
Howard	\$800	\$800	\$400
Frederick	\$750	\$750	\$750
Queen Anne's	\$1,270-1,530	\$760-1,080	N.A.

* Metro Station Policy Area rates would be half these rates.

Public School Impact Tax/Fee Rates
(fee or tax/dwelling unit)

County	Detached	Townhouses	Apartments
Montgomery (proposed)	\$3,920	\$3,220	\$1,960*
Anne Arundel	\$3,161	\$1,997	\$1,433
Calvert	\$3,000	\$2,000	\$1,000
Caroline	\$750	\$750	N/A
Carroll	\$4,197	\$3,097	\$1,543
Charles	\$9,700	\$9,200	\$7,000
Frederick	\$6,509	\$4,365	\$1,218
Prince George's**	\$7-12,000	\$7-12,000	\$7-12,000
Queen Anne's	\$4,730	\$2,569	\$2,569
St. Mary's	\$3,375	\$3,375	\$3,375

* This is the proposed rate for multi-family units that are neither high-rise nor senior-only units. The proposed rates for multi-family high-rise and senior are \$770/unit and \$0/unit, respectively.

** \$7,000/unit for units inside the Beltway and \$12,000/unit for units outside the Beltway.

Approved Preliminary Plans with Completions in 2001
 Completed Projects in 2001 Sorted by Year of Approval
 Residential Projects

<u>Policy Area</u>	<u>Plan No.</u>	<u>Year Approved</u>	<u>Total No. Units</u>	<u>Project Name</u>
Rural-Darnestown/Travilah	185090	1986	20	Potomac Fields
Rural-Darnestown/Travilah	186054	1987	28	Hartley Hall Estates
Olney	184032	1989	10	Dellabrooke Forest
Rural-Goshen	186039	1989	5	Woodfield
Rural-Darnestown/Travilah	187033	1990	11	Darnestown Knolls
Montgomery Village/Airpark	191049	1991	5	Colonial Woods
Olney	189260	1991	177	Brooke Manor
Rural-Goshen	189285	1991	13	Goshen Park Place
Olney	192078	1992	4	Vicchiarelli Property
Rural-Patuxent	189069	1992	8	Charley Forest
Rural-Darnestown/Travilah	192031	1992	3	Hartwig Property
Rural-Goshen	190211	1992	9	Watkins Ridge
Germantown West	190017	1993	715	Kingsview Village
Germantown West	190124	1993	60	Clopper Hills
Olney	194020	1993	5	Norwood Overlook
Rural-Patuxent	192094	1993	38	Abrams Property
Olney	194011	1994	145	Smalls Nursery
Fairland/White Oak	183019	1995	8	Buckley Venetian Farms
Gaithersburg city	1044	1995	202	Quince Orchard Park
Gaithersburg city	1043	1995	11	Seneca Creek Estates
Damascus	196051	1996	16	Woodfield Meadows
Rural-Patuxent	194040	1996	10	Holiday Hills
Rural-Goshen	197048	1997	7	Wilderness Walk
Germantown West	198003	1998	3	Germantown Estates
Kensington/Wheaton	198052	1998	4	Kemp Mill Forest
Potomac	197093	1998	7	Glen Park
Potomac	198101	1998	4	Seven Locks Hills
Rural-Darnestown/Travilah	198069	1998	9	The Landing
Rural-Darnestown/Travilah	198083	1998	28	Glen Meadows
Rural-Goshen	198049	1998	5	Goshen Estates
Rural-Goshen	198061	1998	19	Green Hills Farm
Wheaton CBD	195053	1999	113	Brownstones at Wheaton Metro
Bethesda/Chevy Chase	100033	2000	6	Bradley Hills Grove
Kensington/Wheaton	100022	2000	21	Manor Spring

Source: Montgomery County Planning Department, Research and Technology Center,
 Residential Pipeline of Approved Projects, 2003.

Approved Preliminary Plans with Completions in 2001
 Completed Projects in 2001 Sorted by Year of Approval
 Commercial Projects

<u>Policy Area</u>	<u>Plan No.</u>	<u>Year</u> <u>Approved</u>	<u>Land Use</u>	<u>Total No.</u> <u>Sq. Feet</u>	<u>Project Name</u>
Fairland/White Oak	199095	1999	Other	92,924	Public Storage
Rockville	59799	1999	Retail	12,100	Roadside Development
Bethesda/Chevy Chase	198036	1998	Office/Retail	750,000	Hawley's Addition to Bethesda
Kensington/Wheaton	197017	1996	Retail	2,150	Veirs Mill Exxon
R&D Village	196110	1996	Office	1,800,000	Johns Hopkins Research Campus
Germantown Town Center	194035	1994	Office/Retail	125,700	North Germantown Parcel G
Friendship Heights	192021	1992	Office	249,997	The Hills
Clarksburg	187041	1989	Office	1,000,000	Gateway 270 Corporate Park

Source: Montgomery County Planning Department, Research and Technology Center,
 Commercial Pipeline of Approved Projects, 2003.



TA4 Development Capacity Transferability

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TA4.2 Silver Spring Central Business District**TA4.2.1 Planning Board Ability to Approve Transfer**

The Planning Board may approve the voluntary transfer of staging ceiling capacity from an existing vacant building or a subdivision in the pipeline of approved development to a subdivision in the queue of pending development if both subdivisions are located completely within the Silver Spring Central Business District policy area. Job capacity may be transferred to jobs and housing capacity may be transferred to housing on a one-for-one ratio, and jobs-to-housing or housing-to-jobs capacity may be transferred at a ratio set in each case by the Planning Board.

TA4.2.2 Capacity Transferable From Approved Subdivisions or Buildings

The original holder of the development capacity may transfer all or part of the development capacity to another subdivision. If only a portion of the development capacity is transferred, the balance of the development capacity remains with the original holder until the original subdivision's development approval expires. For partially completed subdivisions in the pipeline of approved development, only that portion of the development capacity on which construction has not begun may be transferred.

TA4.2.3 Capacity Transferable to Pending Subdivisions

The developer of a subdivision in the queue of pending development may provide some or all of the development capacity needed for the subdivision by receiving capacity under TA4.2. If net remaining capacity is available but is insufficient for a subdivision at the head of the queue to receive subdivision approval, the developer of that subdivision may provide the remaining development capacity required by receiving capacity under TA4.2.

TA4.2.4 Transfer Agreements

Before the Board approves a transfer, a transfer agreement must be executed by the transferor, the transferee, the Planning Board and the County Department of Public Works and Transportation. The transfer agreement must provide that the original holder of the development capacity forfeits the Planning Board finding of adequate public facilities for the approved building or subdivision. The agreement must specify the cost to the transferee, on a per-unit or per-job basis, of the transferred development capacity.

TA4.2.5 Treatment of Subdivisions From Which Capacity Has Been Transferred

If development capacity is transferred from an approved but not completed subdivision, the portion of that subdivision associated with the transferred development capacity must be removed from the pipeline of approved development and building permits, if any, issued for buildings in the subdivision associated with the transferred capacity should be canceled. The original subdivision, or portion of that subdivision from which development capacity was transferred, may be resubmitted to the Planning Board for adequate public facilities approval and if the Board finds that adequate public facilities will be available the Board may reinstate the subdivision or portion of the subdivision into the pipeline of approved development.

TA4.2.6 Expiration Dates of Transferred Capacity

The expiration date of development capacity transferred from a subdivision in the pipeline of approved development to a subdivision in the queue of pending development does not change as a result of the transfer. Development capacity transferred from an existing building expires when the receiving subdivision's preliminary plan expires.

TA4.2.7 Transferring Capacity from Existing Buildings

The owner of an existing building may transfer the development capacity associated with the building under TA4.2. The owner must apply for and receive from the Planning Board certification of the development capacity associated with the building. Any transfer of development capacity from an existing building is not complete until the building is demolished. However, the owner of an existing non-residential building who wishes to convert that building to residential use may convert the jobs capacity associated with that building to residential capacity at a ratio set by the Planning Board.

TA4.2.8 Demolition of Existing Buildings

The owner of an existing building may demolish the building before transferring its development capacity. The owner of a demolished building may transfer the development capacity within five years after the building is demolished. If the development capacity is transferred from a demolished building, the owner may later apply to the Planning Board for approval of adequate public facilities for a new development on the site. If the Board finds that adequate public facilities will be available for that development, the Board must add the proposed development to the pipeline of approved development.

TA4.2.9 Transferring Housing Capacity to Jobs and Vice Versa

If capacity is transferred from a non-residential building or subdivision to a residential subdivision, or from a residential building or subdivision to a non-residential subdivision, subject to the Planning Board's approval at the time of subdivision approval, the appropriate jobs-to-housing or housing to jobs ratio must be maintained.

TA4.2.10 Required Approval Date of Source Subdivision

Development capacity may be transferred from a subdivision which was in the pipeline of approved development before May 19, 1998. A subdivision using transferred development capacity must meet the requirements of TP2.

8

TA4.2.11 Transferability of Capacity Created Under Certain Procedures

Development capacity acquired under the Special Ceiling Allocation for Affordable Housing or under any Alternative Review Procedure must not be transferred under TA4.2.

TA4.2.12 Transferability of Capacity Created Through Ceiling Flexibility

A subdivision that received subdivision approval through TP4.1 may be removed from the pipeline of approved development and resubmitted for subdivision approved using transferred development capacity under TA4.2 unless the subdivision is required to implement a traffic mitigation program. If a traffic mitigation program is required, capacity may be transferred if all off-site transportation improvement conditions are met by either the developer of the original subdivision or the developer of the subdivision receiving transferred development capacity.

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A new vision for managing growth in Montgomery County

public hearing draft

The Maryland-National Capital Park and Planning Commission's (M-NCPPC) Montgomery County Planning Board will hold a supplemental public hearing on growth management issues, Thursday, July 10, 2003, 7:30 p.m., in the M-NCPPC auditorium, 8787 Georgia Avenue, Silver Spring.

On May 15, the Planning Board heard from dozens of organizations and individuals, many of whom suggested major changes to the County's Annual Growth Policy (AGP). In late May and June, the Planning Board held several worksessions to discuss and formulate its own recommendations. Because the Planning Board is contemplating fundamental changes to the AGP, Chairman Derick P. Berlage and Board members want additional feedback from the public on these new proposals.

Focusing on the Board's new options for revising the County's Annual Growth Policy (AGP), the public hearing will begin with a brief staff presentation followed by public comment limited to 2 ½ hours.

see page 14

In 1973, Montgomery County adopted a new tool, the Adequate Public Facilities Ordinance, to match the pace of growth with the provision of public facilities. Thirty years later, the County is again looking at how to best manage growth and its effects on road congestion and school crowding.

Thirty years ago, Montgomery County was facing a difficult challenge: how to provide the public facilities (roads, schools, water and sewer, and other services) needed to meet the demands of rapid growth. Since the 1930s, the County's population had been doubling every decade so that by 1973, Montgomery County was home to 176,000 households and 222,000 jobs. That year, the County saw the addition of 7,900 new housing units and almost 18,000 additional jobs. Public facilities, especially sewerage facilities, had reached a point that no more growth could be supported.

Several years earlier, Montgomery County had adopted a revolutionary General Plan containing a vision for accommodating future growth while preserving much of the County's agricultural and open space. Titled "...On Wedges and Corridors," the General Plan called for concentrating growth in corridors well-served by transportation – such as along I-270 and the planned Metro Red Line – and away from the "wedges" of rural land in the western County and along Rock Creek.

Not long after the adoption of the General Plan, the United States Supreme Court upheld the constitutionality of a new tool to help local governments cope with rapid growth: adequate public facilities ordinances (APFO). An APFO allows localities to delay the approval of new development until necessary roads, schools and other facilities are in place. In 1973, Montgomery County adopted its own APFO.

Montgomery County's APFO states that the Montgomery County Planning Board may not approve a new subdivision unless it finds that public facilities are "adequate." The public facilities covered by the ordinance are transportation, public schools, water and sewerage facilities, and police, fire and health services. There are two main questions that the ordinance asks: what, exactly, does "adequate" mean? and what happens when public facilities are not adequate? Since 1986, the answers to those questions for transportation and school facilities have been in the Annual Growth Policy, or AGP.

see page 2

The Montgomery County Council directed the Montgomery County Planning Board to prepare a “top-to-bottom” review of the AGP in 2003. Over the past several months, the Planning Board has been examining the County’s ability to support growth with public facilities. The Planning Board has concluded that fundamental changes to the Annual Growth Policy are necessary.

A “Top-to-Bottom” Review

The AGP is a resolution adopted annually by the Montgomery County Council that contains “the guidelines for the administration of the adequate public facilities ordinance” for transportation and schools. How congested are the roads? How crowded are our schools? The AGP does not regulate the amount, type, or location of development, but rather regulates the *pace* of development. The AGP sets the rules for measuring adequacy, and for determining how much additional development can be approved at any particular time.

The AGP does not regulate development in the cities of Gaithersburg and Rockville. Both Gaithersburg and Rockville have their own planning and zoning authority and are responsible for regulating the pace of growth within their boundaries.

2003: Transforming the AGP

Almost two years ago, the Montgomery County Council was looking at proposals for changing the Annual Growth Policy. They concluded that the current AGP was no longer working as well as it should. Among the concerns raised:

- If the AGP is working, why are our roads so congested? Why are our schools so crowded?
- The AGP’s complicated formulas for measuring “adequacy” are out of touch with the experiences of County residents.
- The AGP has too many exceptions, allowing development to be approved even when facilities aren’t adequate.
- The basic AGP framework was developed in the 1980s – a period

of much more rapid growth than now. In 2003, most of the development in Montgomery County has already occurred, or is already approved.

- Since 1973, many other localities have adopted adequate public facilities ordinances – perhaps they can teach us something.

To help address these concerns, the Montgomery County Council directed the Montgomery County Planning Board to prepare a “top-to-bottom” review of the AGP in 2003. Over the past several months, the Planning Board has been examining the County’s ability to support growth with public facilities. The Planning Board has concluded that fundamental changes to the Annual Growth Policy are necessary.

Following the delivery of staff analyses in early May, the Planning Board held a public forum on May 10 and four public worksessions. During that time the Board has made significant progress in developing a new approach for managing growth in Montgomery County. This document outlines the Montgomery County Planning Board’s findings and a new “policy concept” for the Annual Growth Policy.

Before transmitting its report to the Montgomery County Council, the Planning Board would like to hear comments from Montgomery County residents, public officials, and members of the development industry. The public is invited to a public hearing on this “AGP Policy Concept” on July 10, 2003 at 7:30 PM. The public hearing will be held in the auditorium of the Montgomery County Planning Board’s Silver

The Current AGP

Spring headquarters at 8787 Georgia Avenue. For directions, or to sign up to speak, please contact the Community Relations Office at 301-495-4600.

The Current AGP: How Much Development Can Be Approved?

The Annual Growth Policy contains the rules for determining if public facilities are “adequate” to allow the Planning Board to continue to approve additional development.

The School Adequacy Test

The guidelines used to evaluate school adequacy incorporate Montgomery County Public Schools enrollment projections, existing capacities of schools and any additional capacity (additions and new schools) that is programmed. The school system's 23 high school clusters are the geographic areas evaluated each year in the school test. Elementary, middle, and high school capacities in each cluster are evaluated separately in the AGP. The methodology also considers that space available in adjacent clusters may be factored in for clusters that otherwise would be in deficit.

The AGP test for schools looks five years ahead in its evaluation of facility capacities. This is the same time period used for evaluating road capacities. The five-year period represents the average length of time it will take a development plan to proceed through the governmental and construction phases to occupancy and, hence, the generation of additional students (or traffic on the roads).

The AGP school evaluation process enables the County Council to link the effects of enrollment trends and capital projects to decisions on whether or not

to allow approval of additional residential subdivisions in the coming year. Each year, the new MCPS enrollment forecast and County Council adopted capital improvements program are factored into the evaluation of facility space five years in the future. By July 15 of each year, the County Council must adopt the AGP for the subsequent fiscal year. The results of the AGP schools test direct the Montgomery County Planning Board to either allow or not allow subdivision approvals in the 23 high school cluster areas during that fiscal year. In FY2002, the Damascus cluster was briefly closed to subdivision approvals based on inadequate school capacity.

The Water and Sewerage Facilities Test

Water and sewerage facilities are considered adequate if the property being subdivided is in category 1, 2 or 3 (service planned within two years) in the County's Ten Year Water and Sewer Plan. Police, fire and health facilities are assumed adequate unless the appropriate agency identifies a problem with a particular subdivision. This has never happened to date.

The Transportation Facilities Adequacy Test

The transportation test is administered on a policy area and a local area basis. For Policy Area Transportation Review, the County is divided into 27 policy areas plus the cities of Rockville and Gaithersburg. For each policy area, the AGP calculates the amount of development (expressed in jobs and housing units) that can be supported by the existing and programmed (first five years of the CIP) transportation network. This maximum amount of

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Public facilities tested by the adequate public facilities ordinance (APFO) are transportation, schools, water and sewerage, and police, fire and health facilities. The Annual Growth Policy (AGP) is focused on transportation and school facilities.

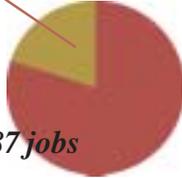
Montgomery County's adequate public facilities ordinance does not apply in the cities of Rockville and Gaithersburg, as these cities have the responsibility to manage growth within their boundaries.

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Amount of Approved
Development

27,326 housing units

108,087 jobs



Top 10 Locations of
Approved Commercial
Development

Area	Jobs
Rockville City*	31,276
Gaithersburg City*	14,614
R & D Village	13,878
Germantown East	11,972
Germantown West	10,808
North Bethesda	6,326
Silver Spring CBD	4,023
Clarksburg	3,904
Friendship Heights	3,833
Fairland/White Oak	3,519

Top 10 Locations of
Approved Residential
Development

Area	Units
Clarksburg	9,280
Rockville City*	4,385
Gaithersburg City*	2,486
Aspen Hill	1,750
Fairland/White Oak	1,449
North Bethesda	1,347
G'town Town Center	1,165
Germantown East	1,137
Bethesda CBD	1,089
Olney	1,026

*Montgomery County
does not control growth
in these areas.

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The Current AGP

development that can be approved by the Planning Board during the following year is called the policy area's staging ceiling, and is adopted each July by the County Council.

If the Planning Board can approve additional development in an area (that is, when the staging ceiling has not yet been reached), the area is said to have positive net remaining capacity. If more development has been approved than can be supported by a policy area's transportation network (that is, the staging ceiling has been exceeded), the area is said to have negative net remaining capacity, and is in moratorium for new subdivision approvals. Previously approved developments can still move forward.

The pipeline of approved developments is the list of development projects which have passed their AGP tests, but have not yet been constructed. These are currently more than 100,000 jobs and 25,000 housing units in the pipeline. Once a project is approved, it retains the "rights" to that capacity for between 5 and 12 years, thus potentially putting the policy area in a moratorium and preventing projects from being approved.

New approvals can occur in policy areas that are otherwise in moratorium through several procedures. These are:

1. *The Special Ceiling Allocation for Affordable Housing*: permits a limited amount of housing to be approved if the project contains a significant affordable housing component.
2. *De Minimis Development*: projects generating five or fewer peak-hour automobile trips can be approved in moratorium areas.
3. *Developer Participation*: permits projects to be approved if the developer provides the needed transportation facilities or otherwise mitigates the trips from his project.
4. *Development Districts*: landowners may form development districts to finance the transportation improvements needed to pass AGP transportation tests.
5. *Alternative Review Procedure for Metro Station Policy Areas*: allows development in the compact areas atop Metro stations to meet policy area (staging ceiling) and local area (intersection) transportation tests obligations by mitigating 50 percent of their trips, making a payment toward transportation improvements, and participating in the area's transportation management organization.

The second transportation test is called Local Area Transportation Review (LATR). Since the mid 1970s, the Planning Board has used LATR to determine if a proposed preliminary plan of subdivision will cause unacceptable local traffic congestion at nearby critical intersections. Local Area Transportation Review is required only for subdivisions which generate 50 or more peak hour automobile trips.

In administering LATR, the Planning Board must not approve a subdivision if it finds that an unacceptable peak hour level of service will result after taking into account existing and programmed roads and transit. If a proposed subdivision causes conditions at a nearby intersection to be worse than the standard, the applicant may make intersection improvements or provide trip reduction measures to bring the intersection back to the standard

Why Grow?

and gain preliminary plan approval. If the subdivision will affect an intersection or roadway for which congestion is already unacceptable, then the Planning Board may approve the subdivision only if it does not make the situation worse.

Intersection congestion is measured using a method called "critical lane volume," which is the number of vehicles which can move through an intersection's conflicting through or left-turn ("critical") lanes in an hour.

Montgomery County's level of service standards for intersections vary by policy area. Like Policy Area Transportation Review, the LATR standards are based on the idea that less traffic congestion should be permitted in areas with lower transit service and usage and more traffic congestion should be allowed in areas with greater transit service and usage. For the rural policy areas, anything worse than 1450 CLV is unacceptable for LATR. For policy areas with the greatest level of transit service available, such as Metro station policy areas, the LATR standard is 1800 CLV. Other policy areas fall somewhere between the two standards, depending on the area's level of transit service and usage.

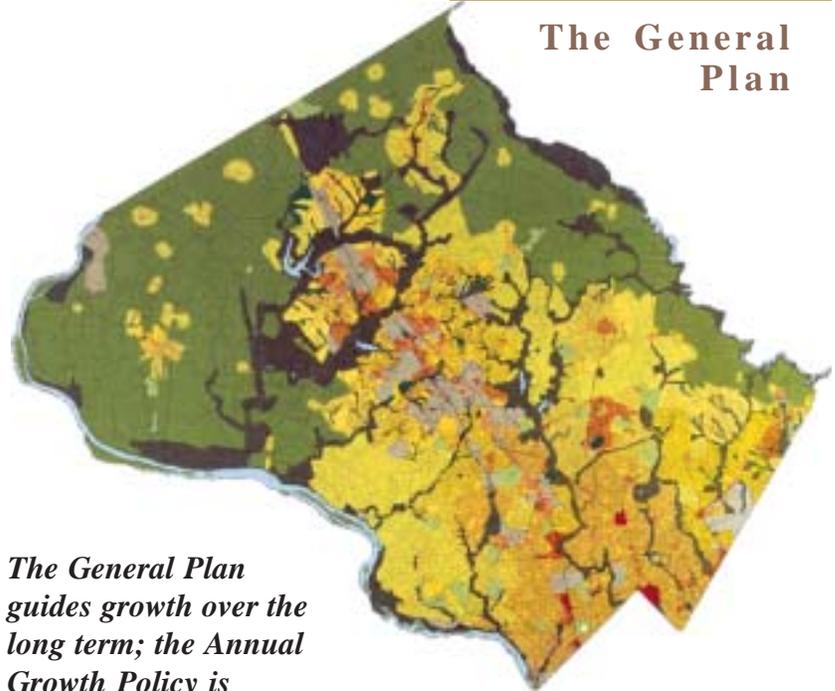
Why Grow?

Why should Montgomery County, or any locality, grow at all? Some of the reasons identified by the Board:

- Some additional growth is desirable and perhaps inevitable and the notion that a locality can just stop development is a fallacy;
- An economy needs some room to grow in order to stay vital;

- A maturing community depends on redevelopment to maintain its vitality and redevelopment often requires involves some growth;
- The United States Constitution provides rights to landowners to use their land;
- Growth may be necessary to provide the range of housing and jobs to support our share of the region's diverse population.

The County's major growth decisions are made in the County's long-range land use plans: the General Plan and area master plans and sector plans. The role of the Annual Growth Policy is to determine how quickly the jobs and housing units called for in the master plans can be built, based upon the availability of public facilities.



The General Plan

The General Plan guides growth over the long term; the Annual Growth Policy is concerned with the timing of development and public facilities.

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Decisions about the amount, location, and type of growth are made in the County's long-term land use plans. The AGP determines how quickly planned jobs and housing units may be built, based upon the availability of public facilities.

Our roads and schools do not have the capacity to support additional growth, but some growth is necessary to safeguard the economic well-being of our residents. To minimize the effect of growth on public facilities, the AGP should set an overall limit on the pace of development, permitting the most efficient land uses to move forward first. All new development should help pay for new roads and schools through an impact tax.

Growth Policy Concept

The Montgomery County Planning Board's new approach for the Annual Growth Policy comes from the following findings:

Our roads and schools do not have the capacity to adequately support additional growth. This argues for...

...A total moratorium on new development until we can "catch up" with new transportation options and new schools. **But the County needs to allow some growth to safeguard the economic well-being of our residents.** So the Planning Board recommends that...

...the **AGP set an overall limit on the County's pace of development** that is the minimum necessary to support a vital economy. The Planning Board suggests that this growth rate is 1 percent: about 3,400 housing units and 5,800 jobs per year. To minimize the impact of this new development on already-congested facilities, the Planning Board recommends...

...**permitting the most efficient pattern of land use to move forward first.** This means concentrating development near transit and balancing jobs with nearby housing. It also means putting the lowest priority on approving development in rural areas, where auto usage is highest and where people live the farthest from the daily destinations.

Because every new development project adds congestion to congested roads, and (with the exception of senior housing) all residential development adds students to a crowded school system...

...**all development should help pay for new roads and schools:** "everybody pays." The Planning Board proposes...

...**reformulating the existing development impact tax for transportation and adding a new development impact tax for schools.** For transportation, there would be a **base impact tax rate that all development would pay**, regardless of location. However, there would also be...

...**a second tier of the development impact tax for transportation** that would charge the most transportation-efficient development the least, and the least transportation-efficient development the most. Development near Metro stations might be charged a very low rate for this second tier of the development impact tax for transportation, while rural development might be assessed the highest rates. On the school side...

...the Planning Board is recommending that **there be a single Countywide development impact tax for schools.** with the possible exception of senior housing, all residential development would pay the development impact tax for schools. With the institution of this tax, the Board proposes...

...**eliminating the current test for school adequacy.** Although the Board looked at many options for a new test of school adequacy, none of the tests proved satisfactory. The Board believes that a development impact tax for schools is the best way to assess new development for its effect on school enrollment. The alternative, a moratorium on new residential con-

A New Approach

struction, would be less effective and have negative side effects, such as worsening the County's job-housing balance and potentially increasing the price of housing.

The Planning Board believes **some concepts in the current AGP are effective and should be retained.** These concepts include...

...**testing development projects for their effect on nearby intersections** (currently called "Local Area Transportation Review"). The Board believes this test has required developers to make intersection improvements that are generally reasonable in cost and benefit the community. Another AGP concept worth saving is...

...**allowing developers to provide the transportation infrastructure needed to support their project.** Developer-funded infrastructure has been an important benefit, and the Planning Board recommends that this continue. Finally, the Planning Board also recommends that...

...**the AGP should continue to provide special treatment to a very narrow set of land uses.** Special treatment might be exemptions from the growth caps or special reduced rates on the impact tax. Such treatment could be justified if these development projects help meet other County policy objectives, such as providing: affordable housing, strategic economic development opportunities (such as technology park or the headquarters of a major corporation), and desired public services, such as hospitals.

The rest of this report adds more detail to the broad growth policy

concept outlined above. The Planning Board encourages the public to attend its July 10, 2003 public hearing or to mail/fax/email their comments to the Planning Board's Community Relations Office by July 17, 2003.

Roads and Schools: At Capacity

Based on their comprehensive review, and through the public testimony received, the Montgomery County Planning Board has determined that congestion on the County's transportation network, and enrollment in the County's public schools, have both reached capacity. To effectively implement the adequate public facilities ordinance, the AGP should use a definition of "adequate" that conforms with the reasonable expectations of most County residents. The Planning Board believes that the County has reached or exceeded those levels for transportation and schools Countywide.

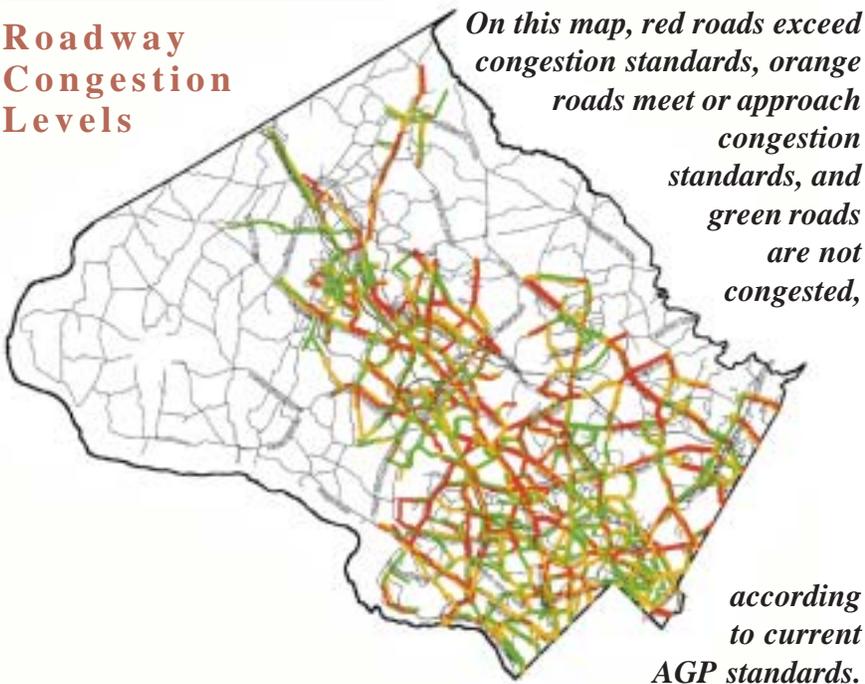
When the current AGP sets "staging ceilings," it is determining the amount of new development that the transportation network can handle, called "net remaining capacity." If net remaining capacity is a negative number, it means that transportation facilities are inadequate – transportation improvements should be made before additional development is approved. One can see how much transportation capacity is available Countywide by adding up all of the areas with positive net remaining capacity and all of the areas with negative net remaining. This is the same as treating the County as a single area for setting staging ceilings. The result: if Montgomery County were treated as one big "policy area" under the AGP, it would be in moratorium.

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To effectively implement the adequate public facilities ordinance, the AGP should use a definition of "adequate" that conforms with the reasonable expectations of most County residents. The Planning Board believes that the County has reached or exceeded those levels for transportation and schools Countywide.

Countywide, the FY03 AGP's "net remaining capacity" (how much new development the transportation network can support) is -11,048 jobs and -1,148 housing units.

Roadway Congestion Levels



Roads and Schools: At Capacity

The net remaining capacity for non-residential development is -11,048 jobs and -1,148 housing units. This is based on the ceilings in the FY 2003 AGP and approval activity through April 2003.

The map on this page shows congestion levels on Montgomery County roadways. The roads are colored red when their congestion exceeds the current acceptable standard. The roads are colored orange when congestion levels are at, or just below, the current standard. Green roads are less congested than their standard. The map shows that congested roads are found in all parts of the County (rural roads were not measured for this map).

The Planning Board also believes that current AGP exaggerates the differences in congestion among the

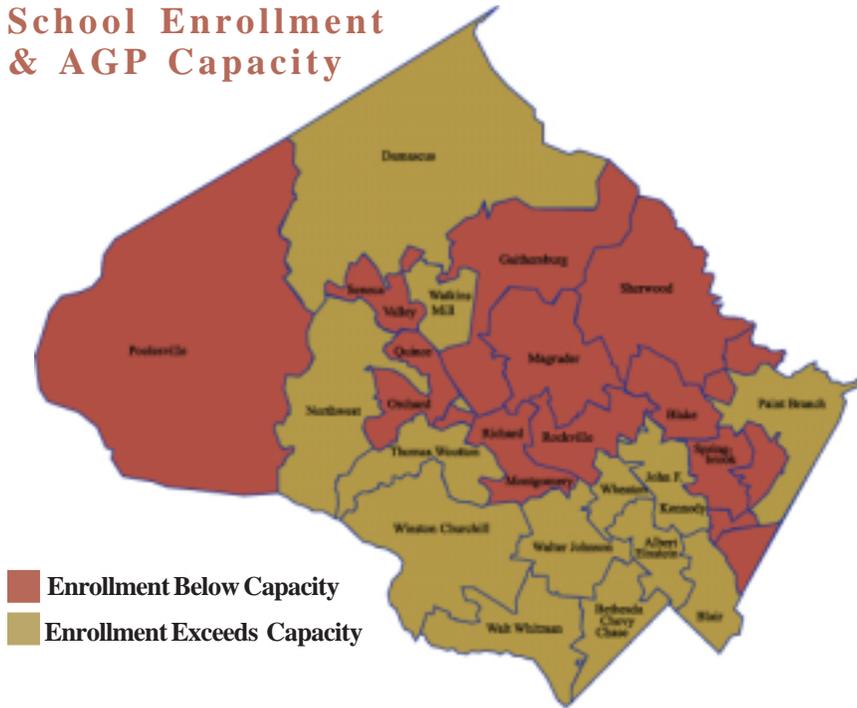
various areas of the County. The Board notes that the average congestion measure for most policy areas varies between 0.54 and 0.59. These are small differences on a scale that ranges from 0 to 1.

Testimony at the Planning Board's May 10 public forum, as well as public comments made during the AGP focus groups, other AGP public meetings, and other public planning meetings, have all strongly shown that the public believes Montgomery County roads are congested. The AGP's standard of what is "adequate" must reflect how willing the public is to accept additional levels of congestion.

The testimony the same public forum also makes it clear that many parents do not consider their schools to be adequate. Although there is widespread recognition that new development is responsible for only a fraction of the County's enrollment growth, there is nevertheless also a strong belief that new development exacerbates an already difficult situation, and therefore must contribute toward new school buildings and classrooms.

The maps on the opposite page show, in yellow, high school clusters where enrollment exceeds capacity at at least one level (elementary, middle or high). Some are over-capacity at more than one level. The maps do not reflect the current AGP test's practice of "borrowing" capacity from an adjacent cluster to make up deficits. The maps suggest to the Montgomery County Planning Board that schools are generally over-capacity in Montgomery County.

School Enrollment & AGP Capacity



“AGP Capacity”

The AGP counts the capacity of a school using a standard multiplier for each classroom; for example, the capacity of all classrooms at the elementary level is 25.

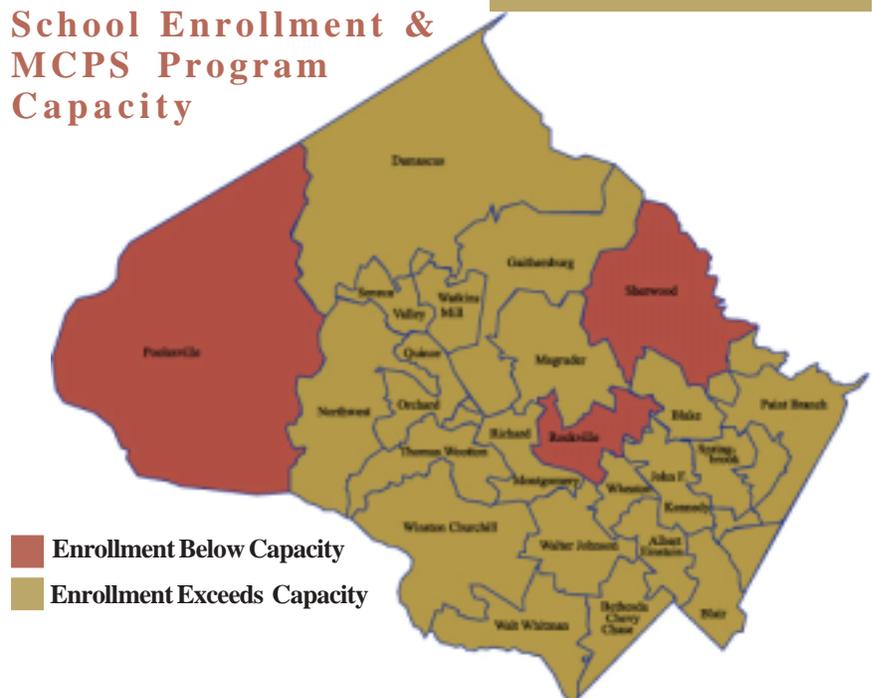
“Program Capacity”

Montgomery County Public Schools uses “program capacity” for planning purposes. With “program capacity,” the capacity of a classroom depends on its use; that is, how it is programmed. On average, *program capacity* is about 94% as large as *AGP capacity*.

These maps compare the 2008 school enrollment forecast with two measures of classroom capacity. The top map uses “AGP capacity,” while the lower map uses Montgomery County Public Schools “program capacity.” These terms are explain in the box on the upper right.

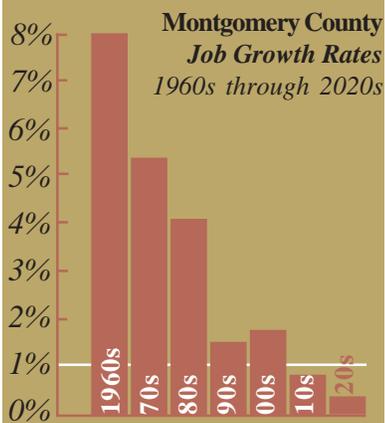
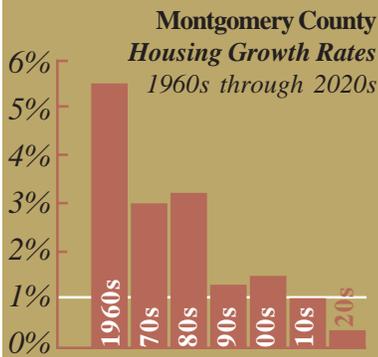
If enrollment exceeds capacity at any level (elementary, middle or high), the cluster is shown in the yellow color. If enrollment does not exceed “program capacity,” at any level, the cluster is shown in dark red.

School Enrollment & MCPS Program Capacity



annual growth policy

1 percent is consistent with the long-term growth forecasts for Montgomery County



Limiting Growth to 1 Percent

Determining an Optimal Growth Rate

Although it finds that roads and schools cannot adequately support additional development, the Planning Board believes that a total moratorium on new development isn't feasible or smart (see "Why Grow?" on page 5). The Board therefore recommends that growth be limited to the minimum necessary to maintain economic vitality, which the Board proposes to be one percent.

To put the one percent growth rate into perspective, it is useful to keep the following facts in mind:

- A one percent growth rate would allow enough non-residential development for about 5,800 new jobs per year. Montgomery County averaged about 7,200 jobs per year in the 1990s and is expected to add about 8,500 jobs per year between 2001 and 2010.
- A one percent growth rate would allow about 3,400 new housing units per year. In the 1990s, Montgomery County average about 3,800 units per year. Between 2001 and 2010, the annual average (without limits) is expected to be 4,500 units.
- By the end of the decade, Montgomery County's market-driven growth rate for non-residential development expected to average one percent, even without growth limits. On the housing side, a market-driven one percent growth rate is expected in about 2015.

The Planning Board's goal is to limit new subdivision approvals so that the pace of actual construction is about

one percent. This may mean that the limit on approvals is more or less than one percent, depending on market conditions and other factors.

The positive effects of the Planning Board's one percent recommendation are two-fold:

- in the near future, it will have a dampening effect on the pace of growth (over time, though the County's natural growth rate will be less than one percent); and
- it will help smooth the market's tendency toward boom-bust cycles that hurt residents and business alike and add to the challenge of providing public facilities.

The Planning Board is recommending that the one percent growth rate be reconsidered every other year. The County Council might decide to increase or decrease the annual growth rate after considering a variety of factors:

- Money is available to construct new public facilities more quickly than growth-driven demand is increasing;
- Economic conditions, including recession;
- Changes in transportation usage or patterns;
- The pace of growth in nearby localities that will generate demand for County facilities;
- Demographic trends, such as providing jobs and housing for Montgomery County residents reaching adulthood who want to remain in the County; and
- The amount and character of already-approved development.

Efficient Land Uses First

The Planning Board envisions the biennial reconsideration of the target growth rate will provide a new and much-needed forum for the public, development industry representatives, and public officials to engage in a true dialog about growth. It will allow the AGP to become a true “growth policy” where the County can take into account all of its growth-related policies when setting growth limits.

Allocating the One Percent Growth Rate: How and Where?

Once a Countywide growth rate is selected, the resulting amount of development would be allocated to geographic subareas of the County. Key to the Planning Board’s concept is the idea that, because transportation facilities are overutilized, the AGP’s allocations should give preference to the most efficient land use patterns first.

From a transportation perspective, the most efficient land use patterns include a balanced mix of jobs and housing in proximity to each other served by as many transportation options (roads, transit, pedestrian) as

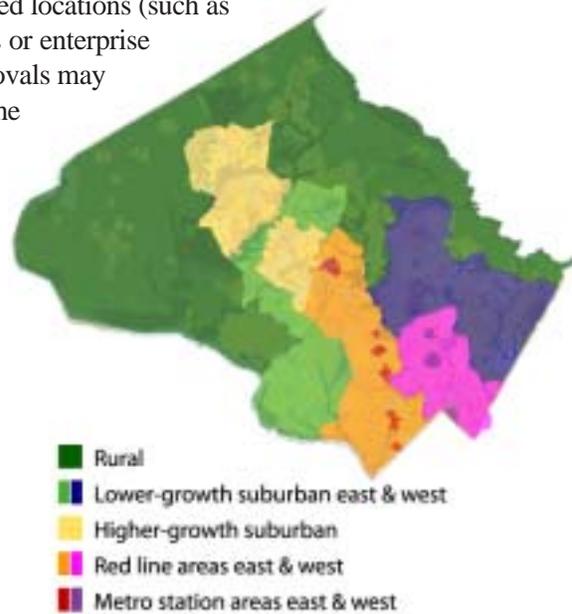
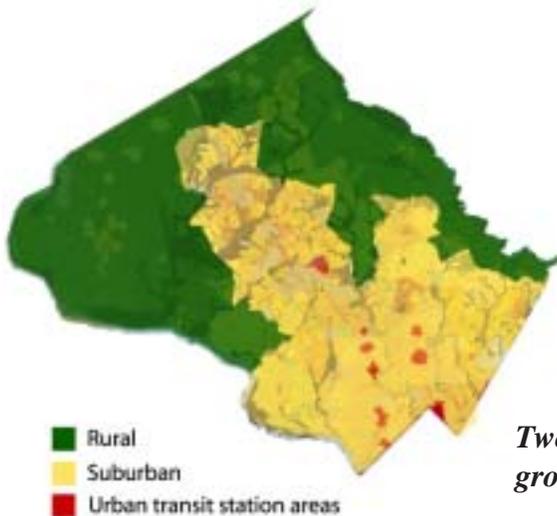
possible. The least efficient land use pattern is characterized by low densities of similar land uses.

Therefore, mixed-use development project near a Metro station will be more efficient than a similar project that is not well-served by transit, and both of these are more efficient than a low-density residential development located among other similar developments.

As a result of the biennial review, geographic subareas will receive varying shares of the Countywide growth amount. An area may not receive an allocation every year; this may be an area that has not used a previous allocation, or it may be decided that all of the allowable growth is best allocated to more efficient locations.

There may also be either preferred land uses (such as affordable housing or strategic economic development projects) or preferred locations (such as Metro station areas or enterprise zones) where approvals may occur even when the area’s allocation is used up.

The most efficient land use patterns include a balanced mix of jobs and housing in proximity to each other served by as many transportation options (roads, transit, pedestrian) as possible.



Two of the alternatives for growth allocation geographies.

Year of Approval for Residential Development Completed in 2001

Year	Units
1986	20
1987	28
1988	0
1989	15
1990	11
1991	195
1992	24
1993	818
1994	355
1995	221
1996	26
1997	7
1998	78
1999	113
2000	27

Year of Approval for Non-Residential Development Completed in 2001

Year	Sq. Ft.
1989	1,000,000
1992	249,997
1994	125,700
1996	1,802,150
1998	750,000
1999	105,024

Limiting Approvals by Area

The Planning Board has not yet determined the recommended boundaries for the growth allocation geographic areas. Among the alternatives under consideration by the Board are two shown on the previous page:

- one option would allow allocations to three different areas: rural, suburban, and urban transit station areas; and
- another option is similar, but would also distinguish between the east and west County and between higher- and lower-growth suburban areas.

Some of the criteria that may be used to determine the appropriate geographic boundaries are:

- the boundaries portray the relative transportation efficiency of locations within the County;
- the boundaries recognize that are land within the same boundary will be competing for a limited growth allocation;
- the boundaries permit allocations that encourage a jobs/housing balance in the area; and/or
- the boundaries encompass areas with similar transportation characteristics, such as transit mode share or are part of the same “traffic shed.”

One of the main tasks of the biennial growth rate review would be the determination of how much of the allowed growth would be allocated to each geographical area. The criteria for making these allocations would be similar to those used to develop the overall growth rate (economic conditions, already-approved development,

planned capital expenditures) as well as those used to determine the geographical boundaries. So, for example, the transportation efficiency criteria would suggest that most new development be permitted near Metro stations. The jobs/housing balance criteria would suggest that more jobs be allocated to the east and more housing to the west.

“Capacity metering” is a concept developed by Park & Planning staff as a way to calculate the amount of development permitted when a new transportation improvement is made. If a transportation improvement is made that represents about 10% of the total cost of transportation improvements needed in an area, then 10% of the area’s remaining development would be permitted to move forward.

When Approvals Reach the Limit

Because a limited amount of new development will be permitted to be approved under the one percent growth rate, there will be instances when an area’s allocation will be drawn down to zero by development approvals. What happens next? There are several options:

- the Planning Board does not approve any more subdivisions until the next allocation occurs;
- a developer can move forward, but only if he or she agrees to mitigate the impact of the proposed development by providing transportation facilities or reducing trips;
- a developer is permitted to move forward after agreeing to pay a pro-rata share of the cost of transportation improvements planned for the area; and/or

Impact Taxes

- a developer is permitted to buy capacity from an already-approved development project.

Development Impact Taxes for Transportation and Schools

The Planning Board’s concept explicitly incorporates development impact taxes as a critical element of the County’s growth management policy. The Board currently envisions a base development impact tax (for roads, for schools, or both) that all development would pay. On top of that base rate, there could be higher rates depending on the type and location of development: in general development in the smartest of smart growth areas would be pay lowest rates and development in rural areas would pay the highest rates. The Planning Board is considering a system where the transportation impact tax would vary by area but the school tax would be the same Countywide.

The Planning Board has expressed interest in a process that, in lieu of a developer paying the impact tax, the Planning Board would direct the developer to spend an equivalent amount of money on a specific set of transportation improvements. This would help assure that improvements are made in a timely manner and could give the Board the flexibility to require the type of improvements - including pedestrian improvements - best suited to serve that development project.

Park and Planning staff estimate that the current cost estimate for planned transportation improvements in Montgomery County is \$5.9 billion. If all of that cost were allocated to the 146,000 jobs and 78,000 housing units to be built between now and 2030, the per job and per-unit cost of that infrastructure would be about \$26,000.

The cost to build school buildings for the 31,200 public school students living in those 78,000 housing units is \$808 million, or about \$10,300 per housing unit. The Planning Board recognizes that \$26,000 per job and \$36,300 per housing unit is not a feasible impact tax, but notes that these figures demonstrate the magnitude of the challenge.

Certain types of development that addresses public needs or achieves public goals could be wholly or partially exempt from the impact tax. Land uses that potentially fit this category include affordable housing, corporate headquarters, hospitals, and strategic economic development projects.

Currently, Montgomery County imposes an impact tax on new development to fund transportation improvements. The tax is applied Countywide, including on development within the cities of Gaithersburg and Rockville. Rates vary by area and by land use type and are shown in the table below.

Current Impact Tax Rates in Montgomery County

Area	Residential			Non-Residential		
	Detached	Town	Apt.	Office	Retail	Indust.
Eastern Montgomery	\$1,727	\$1,727	\$1,243	\$2,000	\$1,500	\$1,000
Clarksburg	\$2,753	\$2,753	\$1,981	\$2,000	\$5,610	\$1,000
Germantown	\$2,492	\$2,492	\$1,794	\$2,000	\$5,080	\$1,000
Metro station areas	\$1,050	\$1,050	\$550	\$750	\$750	\$500
Balance of County	\$2,100	\$2,100	\$1,100	\$1,500	\$1,500	\$1,000

Residential rates per unit; non-residential rates per 1,000 square feet

annual growth policy

Impact taxes or fees charged by other Maryland counties range from \$1,500 to \$12,000 per detached home and from \$750 to \$1,789 per 1,000 square feet of office space.

Impact Tax/Fee Rates For a Single Family Detached Home

County	Rate
Prince George’s	\$7-12,000
Charles	\$9,700
Frederick*	\$7,446
Queen Anne’s	\$5,744
Carroll	\$4,774
St. Mary’s	\$4,500
Anne Arundel	\$4,069
Calvert	\$3,950
Howard	\$2,640
Caroline	\$1,500

Impact Tax/Fee Rates For 1,000 Square Feet of Office Space

County	Rate
Queen Anne’s	\$1,270-1,530
Anne Arundel	\$1,107-1,789
Howard	\$800
Frederick	\$750

**estimated. Frederick applies a per-square-foot rate.*

Growth Policy Public Hearing July 10

continued from page 2

Organizations and individuals may sign up in advance to testify by calling the Montgomery County Planning Board's Community Relations Office, 301-495-4600. Written testimony will also be accepted by July 17, 2003 to be included in the packet for the Planning Board's next worksession. Written comments should be addressed to Derick P. Berlage, Chairman, Montgomery County Planning Board, 8787 Georgia Avenue, Silver Spring, Maryland 20910, faxed to 301-495-1320 or e-mailed to mcp-chairman@mncppc-mc.org.

"Because we may be recommending sweeping changes in the AGP to the County Council, we're strongly encouraging residents, businesses and organizations to testify and provide us with ideas on managing growth in Montgomery County and their reactions to our new proposals," stated Berlage.

After the July 10 public hearing, the Planning Board's will hold additional AGP worksessions before a final vote on July 31. In early August, the Planning Board will transmit its final recommendation to the Montgomery County Council for its own Annual Growth Policy public hearing followed by worksessions in September and October. The County Council is expected to adopt changes to the AGP by October 31, 2003.

The AGP administers the County's adequate public facilities ordinance, which prohibits the Planning Board from approving new development unless it finds that public facilities are "adequate." The AGP contains the guidelines for the Planning

Board's determination of the adequacy of transportation and school facilities.

In October 2001, the Montgomery County Council directed the Planning Board to prepare a "top-to-bottom" review of the AGP and to recommend revisions. In February 2003, the staff of the Montgomery County Department of Park and Planning reported the results of their review of growth management issues in the County and around the nation.

Prior to the May 15, 2003 public forum, planning staff released its set of preferred alternatives for revising the Annual Growth Policy to address the concerns raised about the current approach. Following the public forum, the Planning Board held public worksessions on May 29, June 5 and June 12, 2003.

On June 30, Department of Park and Planning staff posted this revised set of draft AGP recommendations on the Montgomery County Planning Board website, www.mc-mncppc.org. The Planning Board will review these draft recommendations at their regular meeting on July 3, 2003 and release them with any changes for the purposes of generating public comment. They will be available on the website as soon thereafter as possible, and no later than July 7, 2003.

The Maryland-National Capital Park and Planning Commission encourages the participation of all individuals in its programs and facilities. For assistance with special needs, such as large print materials, sign language interpretation, listening devices, etc., please contact Marion Joyce, 301-495-4600, TTY 301-495-1331 or the Maryland Relay Service, 1-800-735-2258.

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