

PHED COMMITTEE #1
October 20, 2014

MEMORANDUM

October 16, 2014

TO: Planning, Housing, and Economic Development Committee

FROM: Glenn Orlin, ⁶⁰Deputy Council Administrator

SUBJECT: Subdivision Staging Policy (SSP) Amendment #14-02, White Oak Policy Area Local Area Transportation Review (LATR)

1. Initial proposal. Councilmembers Floreen, Navarro, and Rice sponsored an amendment to the 2012-2016 SSP that would change how LATR is conducted for developments in the White Oak Policy Area (©1-2). Currently, LATR for a proposed development measures the degree of congestion at nearby intersections in the future, comparing the sum of existing traffic, traffic from the “pipeline” of previously approved but unbuilt subdivisions (also known as “background” traffic), and traffic from the proposed development with the transportation facilities programmed to be on the ground 6 years in the future. The proposal would change the definition of background traffic to traffic from previously approved but unbuilt development that has obtained a building permit. The proposal would apply this definition only to LATR tests in the White Oak Policy Area.

The reason for the Adequate Public Facility Ordinance (APFO)—and its implementation through the SSP—is to assure that the roads, transit, and public schools necessary to adequately meet the demands of new development are in place when that demand materializes. In the case of LATR, the test measures whether intersection congestion standard (1,600 CLV or 1.00 volume/capacity in the White Oak Policy Area) will not be exceeded when comparing the total traffic (existing traffic + background traffic + traffic from the proposed development) to existing capacity plus any new capacity programmed to be completed within 6 years.

The Council has included some exceptions that allow developments to pass LATR even if the intersection standard would be exceeded. Developments generating less than 30 peak-hour trips are considered *de minimis* and so are not subject to LATR. Furthermore, Section TL1 of the SSP states:

For any subdivision that would generate 30-49 peak-hour vehicle trips, the Planning Board after receiving a traffic study must require that either:

- all LATR requirements are met; or
- the applicant must make an additional payment to the County equal to 50% of the applicable transportation impact tax before it receives any building permit in the subdivision.

In administering Local Area Transportation Review for any project that would generate 50 or more peak hour vehicle trips, the Planning Board must not approve a subdivision if it finds that unacceptable peak

hour congestion levels will result after considering existing roads, programmed roads, available or programmed mass transportation, and improvements to be provided by the applicant. If the subdivision will affect an intersection or roadway link for which congestion is already unacceptable, then the subdivision may only be approved if the applicant agrees to mitigate either:

- a sufficient number of trips to bring the intersection or link to acceptable levels of congestion, or
- a number of trips equal to 150 percent of the CLV impact attributable to the development.

SSP Resolution 14-02 is advocated by certain developers of proposed moderately-sized developments (i.e., those generating 50 or more peak-hour trips) who are concerned that if the Percontee/County project is approved in its entirety early on, then its traffic will be included in the background traffic for their LATR reviews, making it much more difficult for them to pass the test. Attorneys Timothy Dugan of Shulman, Rogers testified that the proposal would be one of many important tools to help fund the necessary transportation infrastructure in White Oak without overwhelming developers with too heavy a cost burden. Attorneys William Kominers and Stacy Silber of Lerch, Early and Brewer made similar remarks at the Planning Board's public hearing on this matter.

The proposal is opposed by the Planning Board, Planning staff, State Highway Administration (SHA), Montgomery County Civic Federation, and several civic associations in White Oak (©3-14). They mention the same concern: the likelihood that the level of transportation facilities needed to adequately accommodate future traffic demand will be underestimated, and thus not provided.

Council staff concurs in not approving the initial proposal. Since an approved subdivision may proceed to construction without further APFO review, this practically guarantees that transportation will be inadequate—or even more inadequate than it would otherwise be—at one or more intersections in White Oak. In White Oak today there are three developments that have received subdivision approval but are not yet built: 803,570sf for the Washington Adventist Hospital (or an equivalent of 722,357sf of office space); 265,426sf of light industrial or office space at WestFarm; and a 2,505sf office building expansion at Darcars. Of these three, only the Darcars addition has received a building permit, thus, under the proposal, traffic from about a million square feet of development that is very likely to occur would not be counted in LATR.

2. New proposal. In its review of the initial proposal, the Planning Board recommended an alternative that would allow a development in White Oak to pass LATR if it contributed its proportional share of the cost of an LATR improvement, if that improvement were to be built by a public agency (presumably County DOT or SHA) within 6 years of when the subdivision is approved (see ©15-16, especially the last paragraph on ©16). As elucidated in his testimony to the Council, the Board Chairman noted that the proportional share should be based on the proportion of the subdivision's impact on the effected intersection(s). Councilmember Floreen, who was the lead sponsor of the initial proposal, recommends replacing it with the approach suggested by the Planning Board (©17; a revised SSP Amendment 14-02 reflecting her new proposal is on ©18-19).

Council staff believes this is a promising approach, and with further fleshing out can be a means to address the concerns of the moderate-sized developments in White Oak while still assuring the timely provision of adequate transportation facilities and services. A fully-fleshed out concept should include the following provisions, some which should be included in this SSP Amendment and some in a subsequent revision to the Planning Board's TPAR/LATR Guidelines:

- It is not quite enough to say that “a public agency is able to place the local area transportation improvement in service within 6 years ...”. Instead, one of the conditions of approval would be that the Council *affirmatively programs* the full improvement within the 6-year CIP, perhaps in a new White Oak LATR Improvements project. This would probably mean that, initially, the bulk of the cost would be borne by the County.
- To address this problem, it must be assured that subsequent developments that would have affected one or more White Oak intersections provide *their* proportional share of the costs as well. This means that improvements funded under the White Oak LATR Improvements project should *not* be assumed in the background of the LATR studies conducted for subsequent subdivisions. In this way a subsequent subdivision could be approved if it bought down the County’s cost by contributing an amount commensurate to its proportional share of impact on the intersection.

Here is how this approach could work. As noted, the White Oak Policy Area standard is 1,600 CLV. Assume here that the existing + background traffic at a subject intersection is 1,800 CLV:

1. The traffic from Subdivision #1, without further improvements, would raise the congestion by 20 CLV, to 1,820 CLV. Under the SSP, the development has to mitigate 30 CLV (150% of its impact) to pass LATR. However, the least extensive improvement that could mitigate 30 CLV would be to add a turn lane costing \$500,000 that would actually reduce CLV by 100. In this case, the Council would have to program the improvement in the CIP for completion within 6 years; the development would be required to pay 30% of this cost (\$150,000), while County funds would pay for the 70% balance (\$350,000).
2. Subdivision #2 comes next, and it would have traffic that would impact this same intersection. It would be required to conduct an LATR study *that assumes neither the traffic from Subdivision #1 nor the fact that an improvement has now been programmed there*. In other words, it is treated as if it had been the first subdivision through the gate. Under such an LATR study, Subdivision #2 would raise congestion at this (unimproved) intersection by 40 CLV, to 1,840 CLV, and so it would have to mitigate 60 CLV to pass LATR. It could then pass LATR by paying \$300,000 to the County, buying down the County’s share of the turn lane’s cost from \$350,000 down to \$50,000.

This approach would require careful bookkeeping of both dollars and trips, but it would effectively create a type of road club among developments that have an impact on the same intersection. In the meantime, the public would be served by having the timely provision of adequate transportation.

If the Committee wishes to proceed with such approach, Council staff recommends not bringing this amendment forward for Council action until at least November 25. This would give time for Council staff to work with Planning staff, DOT, and OMB to flesh out this concept, and to determine what portion of it belongs in the SSP versus the TPAR/LATR Guidelines.

Resolution No: _____
Introduced: _____
Adopted: _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: Councilmembers Floreen, Navarro, and Rice

SUBJECT: Amendment to the 2012-2016 Subdivision Staging Policy regarding Local Area Transportation Review in the White Oak Policy Area

Background

1. On November 13, 2012 the County Council approved Resolution 17-601, the 2012-2016 Subdivision Staging Policy.
2. County Code §33A-15(f) allows either the County Council, County Executive, or the Planning Board to initiate an amendment to the Subdivision Staging Policy.
3. On July 29, 2014, the Council approved the White Oak Science Gateway Master Plan.

Action

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

The 2012-2016 Subdivision Staging Policy is amended as follows:

* * *

TL Local Area Transportation Review (LATR)

* * *

TL4 Unique Policy Area Issues

* * *

TL4.7 White Oak Policy Area

In the White Oak Policy Area, as used in TL Local Area Transportation Review, background traffic must be calculated as only approved but unbuilt development for which a building permit has been issued.

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Resolution No. _____

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council



Subdivision Staging Policy Amendment #14-02 – White Oak Policy Area

- Pam Dunn, Acting Chief, Functional Planning and Policy Division, pam.dunn@montgomeryplanning.org, 301-650-5649
- Eric Graye, Planning Supervisor, Functional Planning and Policy Division, eric.graye@montgomeryplanning.org, 301-495-4632
- Nancy Sturgeon, Master Planner/Supervisor, Area 2 Division, nancy.sturgeon@montgomeryplanning.org, 301.495.1308

Completed: 09/25/14

Description

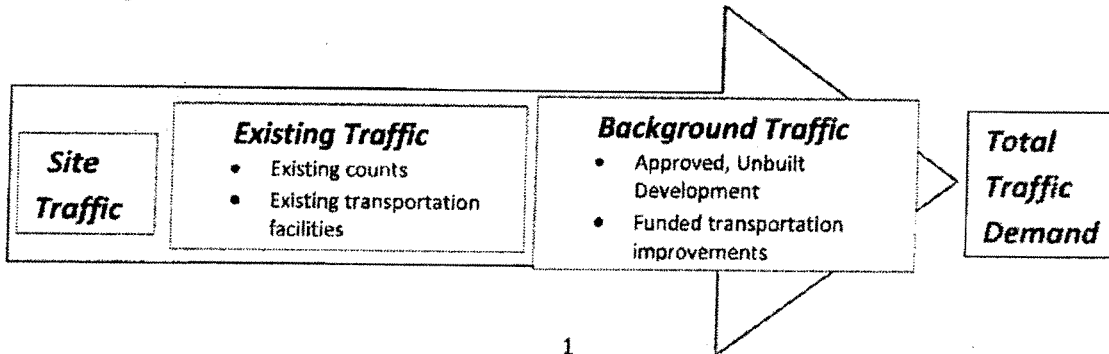
County Council amendment to the 2012-2016 Subdivision Staging Policy (SSP) that would change how Local Area Transportation Review (LATR) is conducted for development in the White Oak Policy Area in the future.

Staff Recommendation

Staff **Does Not Recommend** the adoption of this amendment. A key rationale for this recommendation is the concern that this action would risk the potential to underestimate the appropriate level of transportation facilities needed to adequately accommodate future traffic demand in the context of the LATR process.

Analysis

In the context of scoping Traffic Studies (TSs) for the analysis of congestion at nearby intersections, the County has followed the long-standing policy of including planned development in receipt of an approved preliminary plan and/or an approved building permit as components of background traffic (i.e., traffic associated with approved but yet unbuilt subdivisions). The level of traffic congestion associated with background traffic defined in this manner is then added to the level of traffic congestion associated with existing development in combination with the level of traffic congestion associated with proposed site development in order to determine the total level of traffic congestion to be considered in the TS analysis. This total level of traffic congestion is analyzed in combination with the transportation improvements programmed to be fully implemented six years into the future. This concept is depicted in the figure below.



LATR seeks to ensure a balance between the **traffic demand** in a defined area and the **traffic capacity** from available programmed infrastructure at a time horizon six years in the future. The subject amendment would change the definition of background traffic to be considered for LATR to only that traffic associated with previously approved but yet unbuilt development that has obtained a building permit. **Previously approved but yet unbuilt preliminary plan development that has not obtained a building permit would be exempt from the analysis.** The subject amendment would apply this definition of background traffic only to the LATR test in the White Oak Policy Area.

Staff's concerns about this amendment are briefly described below:

- **Timing of the Availability of Adequate Public Facilities**

The original purpose for adopting an adequate public facility ordinance is to synchronize the timing of development and facilities. The minimum validity period for any preliminary plan of subdivision approved after April 1, 2009 is 7 years; on April 1, 2015 the minimum validity period drops to 5 years. As noted above, LATR assumes a time horizon consistent with the six year Capital Improvement Program (CIP) and Consolidated Transportation Program (CTP). To modify the definition of background traffic to only that traffic associated in receipt of approved building permits changes the time horizon for background traffic demand to as short as 1-2 years, and misses those trips produced later in the 6 year time horizon. If approved preliminary plan development were to proceed to construction prior to the expiration of its approval, there would not be sufficient time to provide additional infrastructure to adequately support it. Therefore, it would be prudent to include such development in the TS analysis. To do otherwise would create an imbalance between traffic demand and traffic capacity and thereby risk the potential to underestimate the appropriate level of transportation facilities needed to adequately accommodate future traffic demand.

- **Risk of Unintended Consequences**

If adopted, the subject amendment would be applicable to all proposed development in the White Oak Policy area, regardless of size. Hypothetically speaking, supposed there were several modest-size development projects recently approved in this policy area. Under this amendment, a new applicant would not need to consider the trips associated with these approvals as an element of the LATR test (with the exception of the portion of these approvals in receipt of building permits). However, the traffic demand associated with this approved preliminary plan development may very well be realized within a six year timeframe. For example, background traffic associated with the Traffic Study currently scoped in support of the Spectrum development proposal located at 12345 Old Columbia Pike in the White Oak Policy Area includes approved preliminary plan development. Not including approved preliminary plan development in the context of the TS prepared for this site would clearly be inappropriate because the traffic demand associated with this approved preliminary plan development may

very well be realized within a six year timeframe. Similarly, extending this policy to other modest-size development in the White Oak Policy Area would be inappropriate, as well.

The subject amendment, introduced to the Council on September 16th, is attached for your review. The Council's public hearing pertaining to this matter is scheduled on October 7th.

Attachment: County Council Subdivision Staging Policy Amendment #14-02

Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor



James T. Smith, Jr., Secretary
Melinda B. Peters, Administrator

September 30, 2014

MARYLAND DEPARTMENT OF TRANSPORTATION

Mr. Casey Anderson
Chairman
Montgomery County Planning Board
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring MD 20910

Dear Chairman Anderson:

The Maryland State Highway Administration (SHA) is pleased to continue partnering with the Maryland-National Capital Park and Planning Commission (M-NCPPC) and the Montgomery County Department of Transportation (MCDOT) to address the needs of all transportation network users in both White Oak and the region. We agree with the M-NCPPC staff recommendation to the Planning Board, that the Board not adopt Subdivision Staging Policy Amendment #14-02 – White Oak Policy Area, on which the Board is to take action October 7.

SHA concurs with M-NCPPC staff that not requiring inclusion of approved but not yet permitted developments in background traffic, as proposed in Amendment #14-02, risks “the potential to underestimate the level of transportation facilities needed to adequately accommodate future traffic demand” in White Oak. Instead, SHA suggests that SHA, M-NCPPC, and MCDOT staff work to develop a coordinated approach to White Oak transportation review, one that is consistent with local area traffic review (LATR) in other Montgomery County policy areas and seeks to balance the transportation needs and safety of all users, including motorists, freight carriers, transit riders, cyclists, and pedestrians.

Therefore, SHA respectfully requests that the Planning Board not adopt Amendment #14-02. SHA looks forward to continuing its productive partnership with M-NCPPC staff as well as the Planning Board. If you have additional questions or comments, please do not hesitate to contact me at 410-545-0412, toll-free 1-888-204-4828, or via email at gslater@sha.state.md.us.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Slater", is written over the word "Sincerely,".

Gregory I. Slater, Director
Office of Planning and Preliminary Engineering

cc: Mr. Art Holmes, Director, MCDOT
Ms. Gwen Wright, Planning Director, Montgomery County Planning Department
Ms. Melinda Peters, Administrator, SHA
Mr. James T. Smith, Jr., Secretary, Maryland Department of Transportation

My telephone number/toll-free number is 410-545-0412/1-888-204-4828

Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • www.roads.maryland.gov

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October 7, 2014

5104 Elm St., Bethesda MD 20814 (301)652-6359 montgomerycivic@yahoo.com

MCCF Testimony for Council Hearing on Subdivision Staging Policy Amendment 14-02

My name is Jim Humphrey, presenting testimony on behalf of the Montgomery County Civic Federation (MCCF) as Chair of the Planning and Land Use Committee. At their September 18 meeting, the members of the MCCF Executive Committee voted unanimously to recommend Council not approve Subdivision Staging Policy Amendment (SSPA) 14-02.

The amendment would change the Local Area Transportation Review (LATR) as applied in the White Oak policy area. The LATR is a test applied when development projects come to the Planning Board for their Preliminary Plan approval. It is at this stage that the Board determines whether local signalized intersections have the capacity to handle traffic from the planned project, or whether there is no capacity remaining so the project can only get approval if an added transportation fee is paid.

The LATR test is used to enforce the county's Adequate Public Facilities Ordinance (APFO), which requires the Board to determine schools, roads, transit and other public facilities are adequate to handle new development projects before approving them.

At present, when the LATR is applied to new projects countywide, the test calculates traffic volume at nearby intersection by counting not only actual traffic but also projected traffic from nearby projects that are approved by the Board but are not yet built. This projected traffic from approved, unbuilt projects is called "background traffic."

The change proposed for the White Oak area by SSPA 14-02 would only count "background traffic" from approved but unbuilt developments for which building permits have been issued by the Department of Permitting Services. The difficulty is that traffic capacity of an approved unbuilt project could be "reallocated" to a second project without rescinding the APFO approval of the first project. Hence, when the original project is later granted building permits with their valid APFO approval there could be insufficient traffic capacity to support both projects; and, the latter project might have avoided paying the added transportation fee intended to fund intersection and road improvements aimed at increasing traffic capacity.

(continued next page)

We understand some persons might perceive a problem with approved but unbuilt projects sitting idle in the pipeline (some not built in more than a decade since receiving their Preliminary Plan and APFO approvals), while newer projects ready to move forward are made to pay a fee because the aged approvals have absorbed traffic capacity in the area. We do not believe, however, that the solution is to weaken one of the key tools used to enforce the APFO.

Instead, we think the solution to clearing the glut of idle pipeline projects lies in Council instructing the Planning Board to grant minimum length validity periods for APFO approvals, to not routinely grant nearly all requests for extensions of APFO approval validity periods and, in the case of larger, multi-phase projects, to only grant Preliminary Plan and APFO approval to each phase when it is ready to proceed to completion. Additionally, the Council must use restraint and not approve blanket extensions to APFO validity periods, as they did in the recent past in response to a weakened economy.

Although Subdivision Staging Policy Amendment 14-02 is proposed to only apply to the White Oak Policy Area, the legislation, if adopted, will set a dangerous precedent for the undermining of the Adequate Public Facilities Ordinance, which will likely be sought by developers in other planning areas across the entire county. The Civic Federation, therefore, respectfully urges County Council members to disapprove SSPA 14-02. Thank you for considering our views.

To the Montgomery County Council:

I am writing to express our civic association's opposition to Amendment #14-02 to the 2012-2016 Subdivision Staging Policy (SSP) that would change how Local Area Transportation Review (LATR) is conducted. These changes would only be made for developments in the White Oak Policy Area.

Currently, the LATR for a proposed development measures the degree of congestion at nearby intersections in the future, comparing the sum of existing traffic, traffic from previously approved but yet unbuilt subdivisions ("background traffic"), and traffic from the proposed development with the transportation programmed to be on the ground six years in the future. The proposal would change the definition of "background traffic" to be traffic from previously approved but yet unbuilt development that has obtained a building permit. This would exempt from the Planning Board's traffic analysis any traffic associated with projects between the time the Planning Board approves a project and the time project receives a building permit. This could result in traffic studies for new projects not taking into account needed road improvements because the Planning Board's traffic analysis is required to ignore this traffic.

Currently, developers whose projects create traffic that exceed certain acceptable standards laid out in the SSP, must pay for the cost of road improvements to mitigate the effects of the additional traffic their projects create. Because the Planning Board would be required to ignore this traffic in the circumstances described above, we believe this proposal would inappropriately shift costs associated with needed road improvements, which are currently being paid by developers who projects increase road capacity, to the taxpayers.

Montgomery County Planning Department staff also recommend against adoption of this amendment. In a memo to the Planning Board dated 10/2/14, staff state:

"The subject amendment would change the definition of background traffic to be considered for LATR to only that traffic associated with previously approved but yet unbuilt development that has obtained a building permit. Previously approved but yet unbuilt preliminary plan development that has not obtained a building permit would be exempt from the analysis...To modify the definition of background traffic to only the traffic associated in receipt of approved building permits changes the time horizon for background traffic demand to as short as 1-2 years, and misses those trips produced later than the 6 year time horizon. If approved preliminary plan developments were to proceed to construction prior to the expiration of its approval, there would not be sufficient time to provide additional infrastructure to adequately support it. Therefore, it would be prudent to include such development in the traffic study analysis. To do otherwise would create an imbalance between traffic demand and traffic capacity and thereby risk the potential to underestimate the appropriate level of transportation facilities needed to adequately accommodate future traffic demand [emphasis added]"

Residents in our community are also bothered by the fact that the Council just amended the Subdivision Staging Policy for the White Oak Policy Area in August. In those amendments, the Council already

relaxed the congestion standards for White Oak by increasing the acceptable level of congestion from 1475 to 1600 CLV and by categorizing the area as "Urban" which has only been used in the past for areas with Metro stations. During the discussion of those amendments our civic associations, certain members of the County Council and Planning Board expressed concerns about inadequate transportation capacity in White Oak. However, we were assured that the Planning Board's Local Area Transportation Review process would ensure new developments would be required to make transportation improvements. Adoption of this Amendment would undermine those assurances and result in certain transportation improvements not being made by developers, thus resulting in these improvements not being made at all or made much later at taxpayer expense.

We ask that you continue to allow the Planning Board to treat White Oak like every other part of the County is treated when new developments are proposed.

In advance, thank you for your consideration of my views on this matter.

Sincerely,

Barry Wides

President, North White Oak Civic Association

(10)

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Calverton Citizens Association

P. O. Box 21

Beltsville, Maryland 20704-0021

October 6, 2014

Honorable Craig Rice, President
Montgomery County Council
100 Maryland Avenue
Rockville, MD 20850

Dear Honorable Rice:

I am writing to say that the Calverton Citizens Association is opposed to Amendment #14-02 to the 2012-2016 Subdivision Staging Policy (SSP) that would change how Local Area Transportation Review (LATR) is conducted. These changes would only be made for developments in the White Oak Policy Area. All parts of the county need to be treated equitably when it comes to projects and development. We ask that you to continue to allow the Planning Board to treat White Oak like every other part of the County is treated when new developments are proposed.

Currently, the LATR for a proposed development measures the degree of congestion at nearby intersections in the future, comparing the sum of existing traffic, traffic from previously approved but yet unbuilt subdivisions ("background traffic"), and traffic from the proposed development with the transportation programmed to be on the ground six years in the future. The proposal would change the definition of "background traffic" to be traffic from previously approved but yet unbuilt development that has obtained a building permit. This would exempt any traffic associated with projects between the time the Planning Board approves a project and the time project receives a building permit from the Planning Board's traffic analysis. This could result in traffic studies for new projects not taking into account needed road improvements because the Planning Board's traffic analysis is required to ignore this traffic.

Currently, developers whose projects create traffic that exceed certain acceptable standards laid out in the SSP, must pay for the cost of road improvements to mitigate the effects of the additional traffic their projects create. Because the Planning Board would be required to ignore this traffic in the circumstances described above, we believe this proposal would inappropriately shift costs associated with needed road improvements, which are currently being paid by developers who projects increase road capacity, to the taxpayers.

Montgomery County Planning Department staff also recommend against adoption of this amendment. In a memo to the Planning Board dated 10/2/14, staff state:

"The subject amendment would change the definition of background traffic to be considered for LATR to only that traffic associated with previously approved but yet unbuilt development that has obtained a

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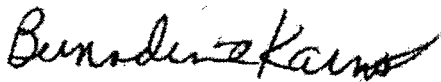
building permit. Previously approved but yet unbuilt preliminary plan development that has not obtained a building permit would be exempt from the analysis...To modify the definition of background traffic to only the traffic associated in receipt of approved building permits changes the time horizon for background traffic demand to as short as 1-2 years, and misses those trips produced later than the 6 year time horizon. If approved preliminary plan developments were to proceed to construction prior to the expiration of its approval, there would not be sufficient time to provide additional infrastructure to adequately support it. **Therefore, it would be prudent to include such development in the traffic study analysis. To do otherwise would create an imbalance between traffic demand and traffic capacity and thereby risk the potential to underestimate the appropriate level of transportation facilities needed to adequately accommodate future traffic demand [emphasis added]**"

On October 2, 2014, the Montgomery County Planning Board also recommended against adoption of this amendment in its current form because it would allow developers from getting out from paying their fair share of certain transportation improvements.

Residents in Calverton and other east county civic associations are also troubled by the fact that the Council just amended the Subdivision Staging Policy for the White Oak Policy Area in August. In those amendments, the Council already relaxed the congestion standards for White Oak by increasing the acceptable level of congestion from 1475 to 1600 CLV and by categorizing the area as "Urban" which has **only been used** in the past for areas with Metro stations. During the discussion of those amendments Calverton, other civic associations, certain members of the County Council and Planning Board expressed concerns about inadequate transportation capacity in White Oak. However, we were assured that the Planning Board's Local Area Transportation Review process would ensure new developments would be required to make transportation improvements. We all know that there will never be a metro in the east county and to make the BRT really work in the east county will be a very difficult task. Adoption of this Amendment would undermine those assurances and result in certain transportation improvements not being made by developers, thus resulting in these improvements not being made at all or made much later at the taxpayer expense.

In advance, thank you for your consideration of our views on this matter.

Sincerely,



Bernadine (Bernie) Karns, President
Calverton Citizens Association

(12)

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Hillandale Citizens Association, Inc.
Testimony to the Montgomery County Council regarding SSP Amendment 14-02
October 7, 2014

The Hillandale Citizens Association opposes the Subdivision Staging Policy Amendment #14-02 removing “pipeline” development without building permits from the Local Area Transportation Review (LATR) tests in the White Oak Planning Area. To not include development projects, which have VAILD Adequate Public Facilities Ordinance (APFO) approvals, in the background traffic scoping for new-project traffic studies, is a bad policy for Montgomery County for the following reasons:

1. This practice would allow new projects to “reuse” capacity that was allocated to a project previously granted APFO approval. Depending on timing — organized or coincidental — this could very well happen in Hillandale under this amendment. There are three significant projects being discussed for Hillandale: HOC at Holly Hall, adding residential to the Hillandale Shopping Center and various ideas being considered by ATU for the old Labor College site. Given that the New Hampshire/Powder Mill Road intersection is the most challenged in the area, not accurately projecting development infrastructure demands and therefore not applying appropriate actions for the amalgamation of projects is bad planning and poor implementation of the WOSG Master Plan.
2. If this SSP amendment were adopted, could two projects be required to make the same developer-supplied improvements to relieve traffic impacts? And, if project two is built before project one, will project one be the beneficiary and be relieved of developer-provided obligations? Furthermore, when project one uses its APFO, who will pick up the tab for the additional infrastructure, required to remedy the problems — the public sector?
3. Currently the background projects in White Oak are identifiable. The pipeline approvals without building permits include the Washington Adventist Hospital. Does Council want to ignore the WAH project’s traffic impact as new development applications come forward?
4. What is the problem being solved? And, is this just a White Oak problem?
 - o The concern prompting this legislation seems to be the potential that the Percontee/County P3 will be applying and receiving APFO approval for their entire project, therefore making it impossible for other developers to move forward. But as recently as last week, County Executive Leggett stated that the P3’s project submissions would be in phases and would be guided by the yet finalized General Development Agreement (GDA). If this is a specific P3 issue, it should be addressed in the GDA. Or, if large multi-phase projects are the problem across the County, a countywide solution should be evaluated.
 - o Others have mentioned “phantom” or “paper traffic” being a big problem in the County. Given Council’s blanket extensions of APFO validity, possibly this is the time for an analysis of APFO policies/timelines for the entire County.

The Planning Board, in deliberating this legislation last week, did not support ignoring the pipeline projects without building permits in White Oak as proposed. The Board did discuss possible methods to approve plans that do not meet LATR tests — everywhere. If this is the true issue, it needs to be fully thought out, not addressed in a piecemeal method with a dangerous precedent being set in White Oak.

SSP Amendment 14-02 is not good policy. HCA urges Council to not adopt this legislation. Thank you.

Presented on October 7, 2014 by Eileen Finnegan, President, HCA

DEER PARK COMMUNITY ASSOCIATION

October 7, 2014

Mr. Craig Rice, President
Montgomery County Council
Council Office Building, 100 Maryland Ave. 5th Floor
Rockville, MD 20850

Ref: **Amendment #14-02 to the 2012-2016 Subdivision Staging Policy**

Dear Mr. Rice,

On behalf of the Civic Association members I represent I wish to record our **strong opposition to Amendment #14-02 to the 2012-2016 Subdivision Staging Policy** (SSP) as it would modify how LATR is conducted only for developments in the White Oak Policy Area.

As residents of White Oak, our members fear that this amendment could lead to traffic studies for new projects excluding much needed road improvements because the Planning Board's traffic analysis is required to ignore this traffic.

Montgomery County makes developers pay for the cost of road improvements to mitigate the effects of the additional traffic their projects create when they exceed the SSP standards. However, we fear that Amendment #14-02 will result in tax payers footing the bill of needed road improvements which are currently being paid by developers.

We understand that our concerns regarding this matter are also shared by Montgomery County Planning Department staff. In a 10/2/14 memo to the Planning Board they recommend against adoption of this amendment. Moreover, on October 2, 2014, the Montgomery County Planning Board itself also recommended against adoption of this amendment in its current form because it would allow developers from getting out from paying their fair share of certain transportation improvements.

Please note that this proposed amendment comes on the heels of the August 2014 amendments of the Subdivision Staging Policy for the White Oak Policy Area. In those amendments, the Council already relaxed the congestion standards for White Oak by increasing the acceptable level of congestion from 1475 to 1600 CLV, and by categorizing the area as "Urban" which has only been used in the past for areas with Metro stations. We believe that instead of helping to deliver urgently needed, *and much promised*, solutions to the extremely bad traffic in White Oak adoption of this Amendment will have the opposite effect. We fear it will result in certain transportation improvements not being made by developers, or made much later at taxpayer expense.

Our members request that you continue to allow the Planning Board to treat White Oak like other sections of Montgomery County are treated when new developments are considered.

Thank you in advance for taking our views into account when deciding on this matter.

Respectfully,

Maria Germany
President
Deer Park Civic Association
White Oak

cc: Montgomery County Council Members

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

OFFICE OF THE CHAIR

October 7, 2014

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

SUBJECT: Subdivision Staging Policy Amendment #14-02

Dear Mr. Rice:

This letter provides the Planning Board's public hearing commentary on SSP Amendment #14-02 and offers a proposed alternative for consideration by the Council. The Board appreciates the need to facilitate economic development in the White Oak area, but is concerned about the implications of removing approved-but-unbuilt development from "background" trips used in Local Area Transportation Review (LATR) calculations. Instead, the Board suggests calculating LATR charges for development that is ready to proceed on a proportionate basis together with approved-but-unbuilt projects, allowing each project to go forward while ensuring equitable sharing of the cost of new transportation infrastructure.

As drafted, SSP Amendment #14-02 could produce the unintended result of allowing a project to proceed to construction without making any LATR contribution under circumstances where the development pipeline includes approved projects that have already been allocated all available transportation capacity. For example, the traffic study for the proposed Spectrum development located at 12345 Old Columbia Pike in the White Oak Policy Area includes approved preliminary plan development as an element of background traffic. These approved projects include: (1) the Washington Adventist Hospital (803,570 square foot hospital or 772,357 square feet of equivalent office space); (2) West Farm (265,426 square foot light industrial or office space and; (3) Darcars at Montgomery Industrial Park Lot 33 (2,505 square foot office building). The traffic impact – and contributions to traffic mitigation – of the Spectrum development should be considered in the context of these other projects, because they all can be expected to materialize within the six year capital program time frame and should all be subject to LATR analysis.

The Board discussed several alternative concepts – some of which are available under current rules - for avoiding situations where approved projects that are not ready to proceed with construction absorb all available local transportation capacity. For example:

- **"Payment Instead of Construction" Provision** – This provision, presented on page 26 in the 2013 Local Area Transportation Review/Transportation Policy Area Review Guidelines, could be used by applicants to fund traffic mitigation improvements that

they cannot feasibly implement on their own. This provision reads:


“Where an applicant has made a good faith effort to implement an acceptable improvement and where the Board finds that desirable improvement cannot be feasibly implemented by the applicant but that it can be implemented by a public agency within six years after the subdivision is approved, the County Council has authorized the Planning Board to accept payment to the County of a fee commensurate with the cost of the required improvement.”

- **“Proportional Payment” Proposal** – A Transportation Management District (TMD) could be created with a fund to collect payments from developers toward LATR improvements in the White Oak Policy Area. This would supplant the current LATR analysis at subdivision or sketch plan, as in White Flint. These payments could roll over into a pool for Bus Rapid Transit implementation.
- **Traffic Impact Study Technical Working Group (TISTWG) Review** - The TISTWG is a recently formed advisory body comprised of civic and private sector representatives, as well as staff representing MCDOT, MDSHA, M-NCPPC and WMATA. In support of the upcoming 2016 Subdivision Staging Policy, this group will provide oversight regarding the update and refinement of the current LATR process and could address the issues in the proposed amendment.

While the Board believes that a variety of approaches might be viable and looks forward to the recommendations of the TISTWG in 2015, we feel that a more timely solution to the traffic analysis concerns in White Oak is appropriate. Thus after consideration, the Board voted 3:0 to support the following proposal in lieu of SSP Amendment #14-02:

“Where the Board finds that the need for a local transportation improvement is attributable to trips generated by a development proposed by the applicant combined with previously-approved but unbuilt development proposed by other property owners and such improvement can be implemented by a public agency within six years after the subdivision is approved, the County Council has authorized the Planning Board to accept payment to the County of a fee commensurate with the **applicant’s proportional share** of the cost of the required improvement.”

The Board looks forward to the upcoming discussion of this amendment with the Council.

Sincerely,

Casey Anderson
Chair

cc: Councilmember Floreen
Councilmember Navaro
Glenn Orlin
Stacey Silber
William Kominers

CA:eg:am



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

NANCY FLOREEN
COUNCILMEMBER AT-LARGE

MEMORANDUM

October 16, 2014

TO: Councilmembers
FROM: Nancy Floreen, Councilmember
SUBJECT: White Oak Local Transportation Review

I ask for your support for Subdivision Staging Policy Amendment 14-02, White Oak Local Area Transportation Review, and I support the modifications proposed by the Planning Board as reflected in the attached draft of the bill. Proportionality is the key to a fairer, more equitable system that still results in new infrastructure.

The Council voted in July to approve the White Oak Science Gateway Master Plan as a way to bring economic renewal to an area of the County that has waited a long time for its turn. SSP 14-02 is a necessary step in the implementation of the plan. It creates an alternative path through the Local Area Review process. Proposed development will continue to operate within our existing Adequate Public Facilities Ordinance system and meet its responsibility to provide infrastructure. However, development will not be stopped by a disproportionate and unsustainable financial burden. The change will be particularly significant for smaller projects.

Our existing system fails to recognize that smaller projects are less able than their larger counterparts to construct intersection improvements and other transportation-related infrastructure. As modified by the Planning Board, SSP 14-02 would allow projects to pass LATR by making a financial contribution that reflects the scope of the project. The County continues to control our transportation system and also receives resources to construct the infrastructure.

Smaller neighborhood-serving projects are just as important as the mega projects on the horizon. As we did with White Flint, we should create a unique process to ensure timely production of infrastructure in an equitable fashion in White Oak.

Let's give White Oak a chance to thrive sooner rather than later. I hope that I can count on your support.

Attachment

cc: Joy Nurmi, Steve Silverman and Greg Ossont

17

100 MARYLAND AVENUE, 6TH FLOOR • ROCKVILLE, MARYLAND 20850
240/777-7959 • FAX 240/777-7989 • COUNCILMEMBER.FLOREEN@MONTGOMERYCOUNTYMD.GOV

PRINTED ON RECYCLED PAPER

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Resolution No: _____
Introduced: September 16, 2014
Adopted: _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: Councilmember Floreen

SUBJECT: Amendment to the 2012-2016 Subdivision Staging Policy regarding the White Oak Science Gateway Policy Area

Background

1. On November 13, 2012 the County Council approved Resolution 17-601, the 2012-2016 Subdivision Staging Policy.
2. County Code §33A-15(f) allows either the County Council, County Executive, or the Planning Board to initiate an amendment to the Subdivision Staging Policy.
3. On (date), 2014, the Council approved the White Oak Science Gateway Master Plan.

Action

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

The 2012-2016 Subdivision Staging Policy is amended as follows:

* * *

TL Local Area Transportation Review (LATR)

* * *

TL4 Unique Policy Area Issues

* * *

TL4.7 White Oak Science Gateway Master Plan

[[In the White Oak Science Gateway Policy Area, as used in TL Local Area Transportation Review, background traffic must be calculated as only approved but unbuilt development for which a building permit has been issued.]]

If the Planning Board finds that:

- (a) the need for a local area transportation improvement is attributable to traffic to be generated by a development proposed by the applicant, combined with existing traffic and traffic from previously-approved but unbuilt development proposed by other property owners; and

(b) a public agency is able to place the local area transportation improvement in service within 6 years after the applicant subdivision is approved;
the Board may approve the subdivision conditioned on the applicant paying a fee to the County that the Board finds is commensurate with the applicant's proportional share of the cost of the required local area transportation improvement. The fee must be paid at a time and manner consistent with Transportation Mitigation Payments as prescribed in Section 52-59(d) of the Montgomery County Code.

* * *

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

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MEMORANDUM

February 5, 2015

TO: Planning, Housing, and Economic Development Committee

FROM: Glenn Orlin, Deputy Council Administrator

SUBJECT: Subdivision Staging Policy (SSP) Amendment #14-02, White Oak Policy Area Local Area Transportation Review (LATR)

Councilmember Floreen is putting forward an alternative to SSP Amendment #14-02 that would change how LATR is conducted for developments in the White Oak Policy Area, following from a suggestion by the Planning Board Chair last fall. The revised amendment is on ©1-2.

The proposal would have the Council identify all but the largest master-planned transportation improvements needed to serve the planned buildout of the White Oak Policy Area, and have each new development pay a share of those costs through a new LATR payment that would be proportionate to the rush hour trips generated by that development. This set of improvements would be proposed after a consolidated traffic study; a final White Oak Local Area Transportation Improvement Program would be approved by the Council. The new payment would replace the current LATR test, which requires each development to mitigate any congestion it causes at any nearby intersection. Both the Improvement Program and the fee would be adopted by the Council and amended at any time, after a public hearing.

The largest master-planned transportation improvements in White Oak—the US 29 and MD 650 Bus Rapid Transit (BRT) lines, the US 29 grade-separated interchanges at Stewart Lane and at Tech Road/Industrial Parkway, and the widening and extension of Old Columbia Pike—would not be included in the Improvement Program. The assumption is that these projects ultimately would be built with a combination of Federal, State, and County funds.

Councilmember Floreen also proposes that this LATR payment be creditable against a development's transportation impact tax; if this concept is accepted, a subsequent bill to amend the impact tax law would be necessary.

Council staff suggests that the Committee request the Planning Board and the White Oak civic and business stakeholders review this alternative and provide feedback in the next few weeks to the Committee.

Resolution No: _____
Introduced: September 16, 2014
Adopted: _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: Councilmember Floreen

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

Background

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

Action

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

The 2012-2016 Subdivision Staging Policy is amended as follows:

* * *

TL Local Area Transportation Review (LATR)

* * *

TL4 Unique Policy Area Issues

* * *

TL4.7 White Oak [[Science Gateway Master Plan]] Policy Area

[[In the White Oak Science Gateway Policy Area, as used in TL Local Area Transportation Review, background traffic must be calculated as only approved but unbuilt development for which a building permit has been issued.]]

- (a) The Board may approve a subdivision in the White Oak Policy Area conditioned on the applicant paying a fee to the County commensurate with the applicant's proportion of the cost of a White Oak Local Area Transportation Improvement Program, including the costs of design, land acquisition, construction, site improvements, and utility relocation. The proportion is based on a subdivision's share of peak-hour vehicle trips

generated by all master-planned development in the White Oak Policy Area approved after October 7, 2014.

- (b) The components of the White Oak Local Area Transportation Improvement Program and the fee per peak-hour vehicle trip will be established by Council resolution, after a public hearing. The components will be identified from a consolidated traffic study for the entire White Oak Policy Area, assuming the ultimate construction of master-planned development. The components will not include: the US 29 grade-separated interchanges at Stewart Lane and at Tech Road/Industrial Parkway; the US 29 and MD 650 Bus Rapid Transit lines, and the connection and widening of Old Columbia Pike.
- (c) The Council may amend the Program and the fee at any time, after a public hearing.
- (d) The fee must be paid at a time and manner consistent with Transportation Mitigation Payments as prescribed in Section 52-59(d) of the Montgomery County Code.

* * *

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

Hillandale Citizens Association
Site II Declaration of No Further Need/GDA and WOSG SSP
Comments to County Council
February 24, 2015

Thanks to Council for the formal opportunity to comment on the rather involved matters of the Site II Declaration of No Further Need, the MoCo/Global Life Sciences General Development Agreement and the Amendment to the Subdivision Staging Policy for the White Oak Science Gateway Master Plan.

As background, the Hillandale Citizens Association requested that the New Hampshire Corridor be added to the then-named East County Science Center Master Plan with the desire to better integrate the development opportunities afforded to the area by the consolidation of the FDA at the BRAC-closed Naval Surface Warfare Center on New Hampshire Ave. With the financial downturn of the National Labor College, the development of the Transit Corridors Master Plan and the zoning rewrite, being part of the plan promised to provide a comprehensive planning and transportation review for our community. As the work went forward, residents were assured that infrastructure staging and the now-existing development approval processes (Local Area Transportation Review) would guide and guarantee that the proposed density would "fit" within the area's limited transportation possibilities. Staging was removed late in the process and congestion standards were increased to urban (without Metro). Now the SSP amendment proposes to remove the customary LATR process with "pay and go."

Hillandale is eager for the WOSG plan to move forward, but we also ask that the development be orderly to well serve the existing residents and employees along with the anticipated new growth. If "pay and go" is to provide orderly development, we have several requests: (1) have a transparent process to determine proposed intersection configurations, (2) modify zoning density if reasonable and attractive intersection solutions do not manage the impacts, (3) strengthen the NADMS program, (4) require biennial traffic-count monitoring of key intersections, (5) provide individual CIP PDFs for projects and (6) collect full Impact Taxes.

Detailed comments on both the Declaration/GDA and the "pay and go" proposal are attached. We remain eager to speak with Councilmembers and Council Staff as these issues are considered. Thank you.

Submitted by
Eileen Finnegan, President
Hillandale Citizens Association

Comments Re: Declaration of No Further Need/General Development Agreement (GDA)

Job creation: The foundation of the WOSG plan and the commercial reuse of the old WSSC Site II land was the promise of **creating new jobs** with the goal of improving the countywide jobs/housing balance. The GDA must be structured to realize the jobs and not allow the opportunity to be housing driven. Other nodes in the WOSG plan, notably Hillandale, will have large residential components coming forward.

Environmental considerations: At a minimum, the approved WOSG Design Guidelines requiring M-NCPPC regulatory review of environmental buffers must be honored in the GDA. The layout drawing submitted during the M-NCPPC worksessions has development proposed within environmentally sensitive buffer zones.

Non-Auto-Driver Mode Share (NADMS): During the plan's evolution, NADMS became a tool to moderate the transportation impacts. The developer promised innovative means to reduce single-occupancy vehicle trips at peak periods. Ideas included private shuttles, reduced rents for transit users and "other" unspecified solutions. Given the anticipated size of Phase 1 (3M ft²), the County must hold the development partnership to the full NADMS goal of 30% for commercial and residential, and have the development entity — not just "The County" — provide the necessary remedies to meet the NADMS. Furthermore, since properties may be spun off, the continuation of the 30% NADMS requirements must run with the land and have substantial enforcement mechanisms.

Delineation between "The County" and MoCo as a development partner: Council needs to ensure that the GDA makes a bright line between the two functions of the government in this process. If this is not in the GDA, a "firewall" needs to be within the County government's implementation plan for the partnership. A clear accounting of capital and operating costs associated the partnership will ensure proper financial distribution between the parties. This is needed to evaluate the project's success and business returns.

Subdivision Staging Policy (SSP) changes: Tying the SSP to the GDA has risks and implications for the development across the County. To embed the SSP into a long-living contract arrangement, the county may lose the needed flexibility of future SSP modifications or corrections.

Future of the Food and Drug Administration campus: In budget documents for FY15 and FY16, FDA has stated the need to update their Master Plan to increase the population and accommodate additional consolidation of the agency. With more efficient use of federal space and GSA's movement to federal ownership of facilities, continuing the consolidation at White Oak must be recognized as a desirable outcome for the area.

**Comments Re: White Oak Science Gateway Subdivision Staging Policy:
“LATR Pay and Go” Amendment**

Development densities may have to be lowered: “Pay and go” guarantees the density on any given property. But unfortunately, the WOSG plan did produce a fine grain look at the area required for a “pay and go” approach. The WOSG plan is an aggressive plan, based on densities beyond what is supportable by the local transportation infrastructure proposed. The operative planning assumption was that the existing Local Area Transportation Review (LATR) would manage the “density issue” with roadway constraints molding the final build-out. With a “pay and go” approach, the presumption is that all the density can be built with (yet-to-be-specified) appropriate infrastructure. **Hence, the modeling exercise proposed must be given the latitude to suggest changes to the zoning densities if an undesirable or dysfunctional intersection is required to handle the build out. Council should commit to approving any zoning changes necessary.**

Quality and functionality of the proposed improvements will need vetting: Very late in the master plan process, an HCM analysis of limited intersections was commissioned. Attached is a graphic of the New Hampshire and Powder Mill intersection depicting the consultant’s suggestions. This modeling was not done using full-density. Please note that these proposed lane additions will not solve the traffic issues; the intersection will still be 20% above capacity. Amazingly, the right-of-way for the planned median BRT system was not considered. SHA is also considering a project for an added southbound New Hampshire lane accessing the westbound Beltway entrance to manage existing capacity problems at Powder Mill and New Hampshire. **Any infrastructure proposal must result in a reasonable outcome and provide a community-friendly, attractive result. Although the “pay and go” will not cost out the BRT system, any design proposals must include the right-of-way required for BRT or cycle tracks or other agency infrastructure projects.**

NADMS needs to be strengthened: Since approval of the plan, it is clear that the NADMS is a loose goal for each node in the plan. There is no requirement on a project-by-project basis; it is merely an area composite goal. Furthermore, MC DOT negotiates the TMAGs with input from MNCPPC. To achieve the NADMS goals, MC DOT needs additional authority, especially regarding residential development. It is critical to the success of the plan that NADMS outcomes line up with the plan’s goals.

Additional smaller capital improvements will be necessary: Current LATR review of new development considers pedestrian and bike improvements within the general area. LATR is also the mechanism that provides relief for impacts to neighborhoods from new development traffic on small residential roadways. Some of our major roadways and connecting residential streets (Elton) do not have sidewalks. Improved street scaping is needed in the future to enhance the area. These needs are project specific and will be beyond the scope of “pay and go.”

One such improvement that Hillandale has been requesting through the planning process is a need to manage impacts on the residential portion of Elton Road when redevelopment occurs in the commercial section of Elton. The Planning Board advised that this would be part of the regulatory review of any project through LATR. “Pay and go” does not have a mechanism for

smaller, neighborhood focused improvements. Please consider applying Transportation Impact Tax payments to fund these smaller local improvements as developments come forward.

Another local project that is in project planning, but is not in the WOSG Master Plan is the Hillandale Transit Center. Envisioned as a layover for buses, this project needs to be reevaluated since the previously approved development plan dedicating land has been abandoned. The western stub of Powder Mill may no longer be the best location for this facility. Wherever this facility is built, it may be a good candidate for Impact Tax funding.

Monitoring and construction of improvements: Given that the WOSG Transportation Management District has been authorized and the TMD will be preparing (limited) biennial reviews, consider providing additional County funding for MCDOT and M-NCPPC staff to provide biennial traffic monitoring of major intersections with actual traffic counts. Triggers for intersection improvements must be set and realized. Each node must have a stand-alone CIP to provide assurances that each area will be managed in a timely and fair method.

Does “Pay and Go” address the evolving conditions or need for the BRTs? Although intersections may be improved, the BRT on New Hampshire Ave is absolutely necessary. Without all the BRTs functioning at a high level of performance, and the NADMS being achieved, the roadway improvements proposed will not provide the mobility needed to support the development activity.

Impacts beyond WOSG area: The “pay and go” does not address development transportation impacts beyond the WOSG plan area. Given the amount of density and the infrastructure deficit in the larger area, the County should plan on reviewing other nearby intersections outside the plan area. Montgomery should begin the conversation regarding the issue of Cherry Hill and Powder Mill with Prince George’s County and SHA and offer some contribution to resolving that intersection improvement. Retaining the Transportation Impact tax to address these sure-to-happen costs would be prudent.

Public information of WOSG development must be easily accessible: Direction and funding must be given to M-NCPPC to begin and maintain an accurate, publicly accessible web site tallying the status of the development projects in the WOSG plan area. Information should include jobs/housing/commercial approval numbers, links to development projects and CIP PDFs along with other pertinent information on the plan’s implementation.

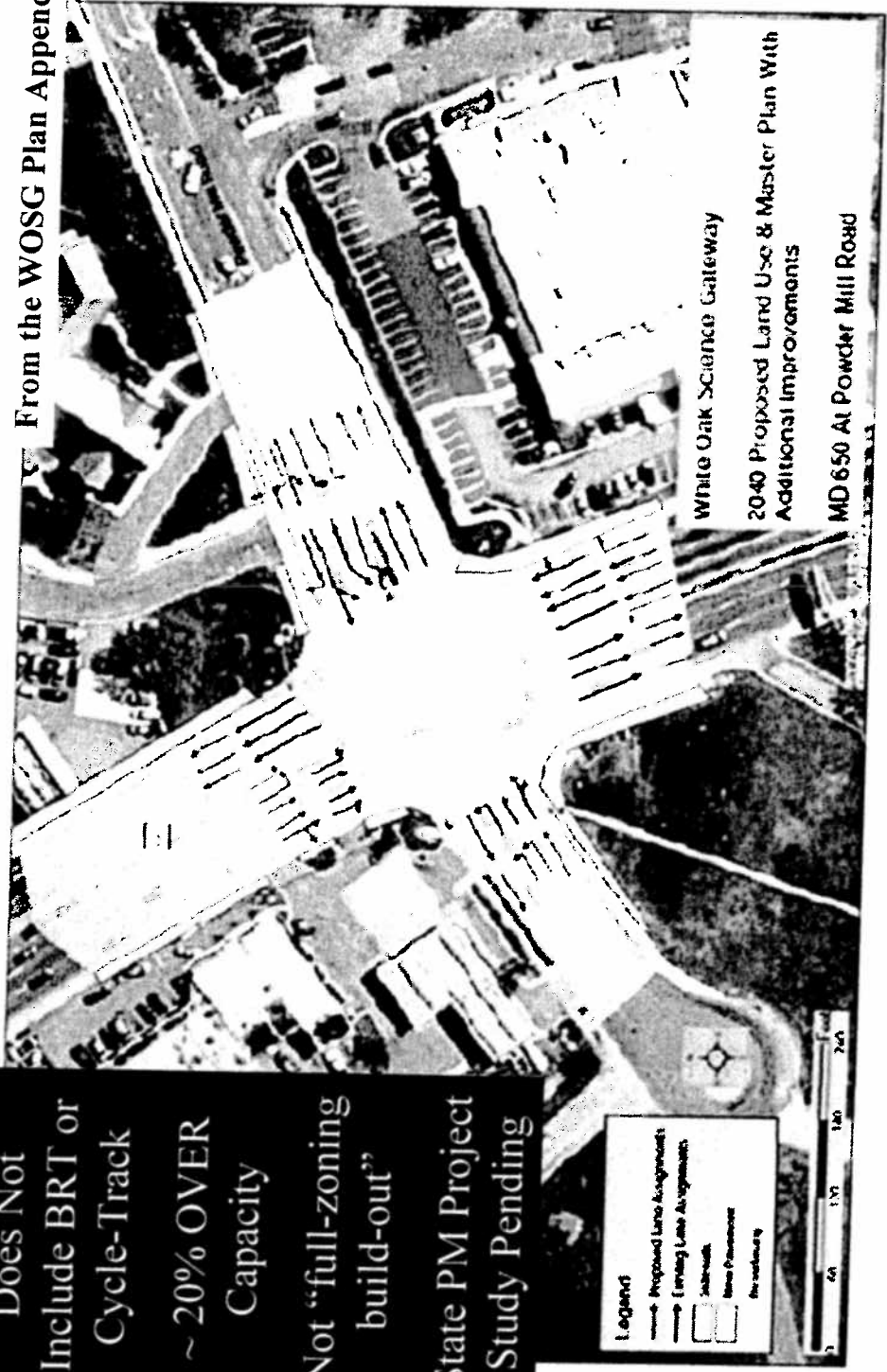
DO NOT CREDIT “LATR Pay and Go” toward Transportation Impact Taxes: Consistently through the planning process, Impact taxes have been a given—even touted! Although the theory of the credit undoubtedly stems from current credits for developer-provided improvements, “pay and go” credits should not be given. This new scheme is reducing the cost of development applications and has the County shouldering more costs and risks of implementation. Credit would not be appropriate. Additionally, some large projects in the plan area are not in the “pay and go” bucket but will require significant County funds. Impact Taxes from the WOSG area (along with Impact Taxes from across the County) would be well used here.

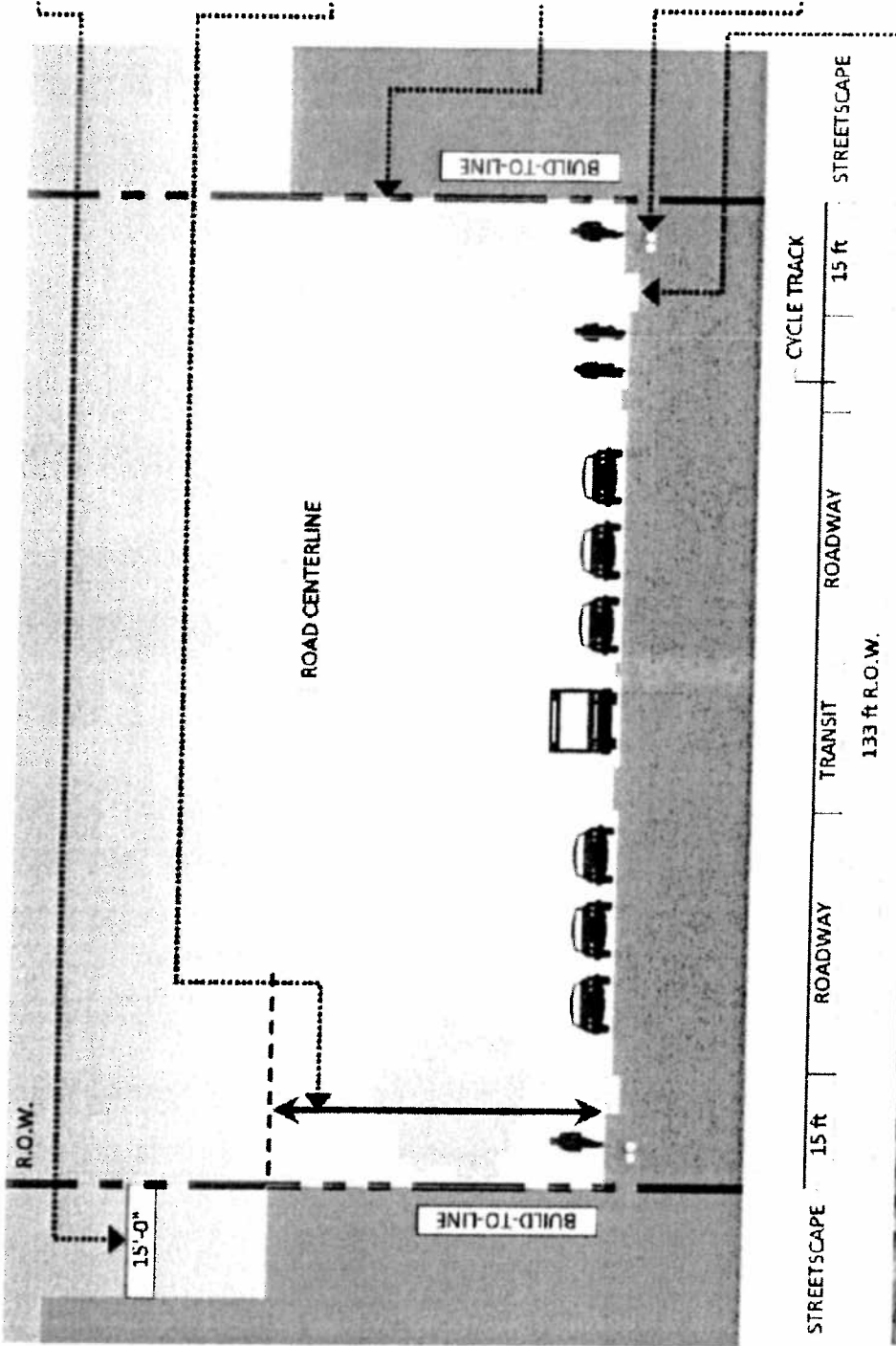
Note: Existing exemptions from Transportation Impact Taxes include Bio-Science uses and Hospitals. Crediting Impact Taxes would potentially incentivize residential construction.

New Hampshire/Powder Mill “at build-out”

Does Not
Include BRT or
Cycle-Track
~ 20% OVER
Capacity
Not “full-zoning
build-out”
State PM Project
Study Pending

From the WOSG Plan Appendix





Tower Setback

Minimum suggested is 15'-0; will vary depending on development specifics. To be reviewed on a case by case basis.

Street Wall

Preferably between 2 and 5 stories, but can vary depending on project specifics. To be reviewed on a case by case basis.

Build-to Line

Establishes the location of the street wall. Should align with public right-of-way, unless project particulars require otherwise.

Utilities

Locate underground, if feasible.

Streetscape

Provide closely spaced trees (40—45' on center). Provide sidewalk width per DOT requirements.

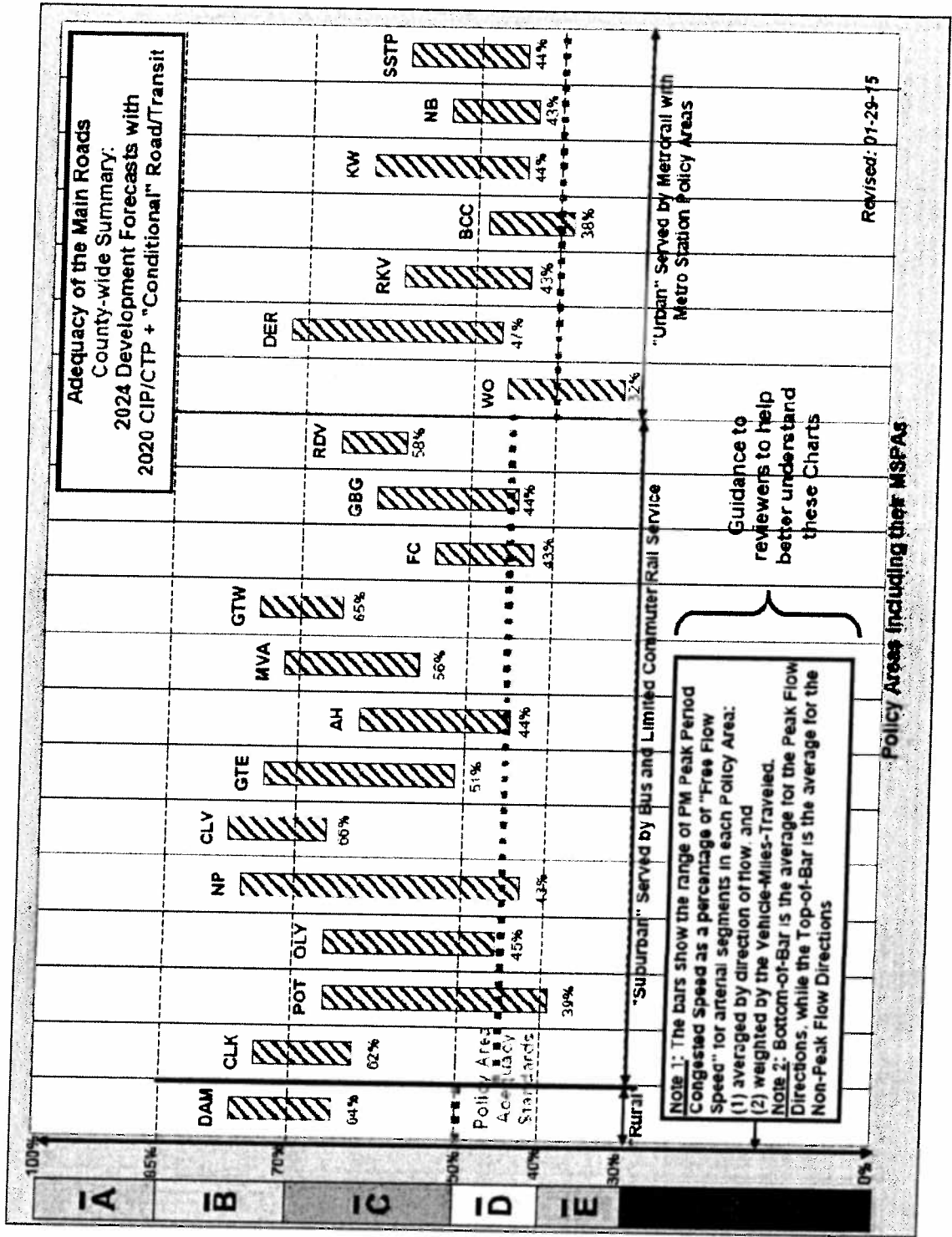
Redevelopment of the Hillendale Shopping Center could provide a gathering space connected to mass transit currently under study. Consolidated frontages along New Hampshire Avenue can offer opportunities to improve the area for pedestrians.



Hillendale Center | Street Profiles | New Hampshire Avenue

(BT)

2015-16 Transportation Policy Area Review for 2024





FY 2016 PRESIDENT'S BUDGET

February 2015

The Food and Drug Administration (FDA) protects and promotes the health and well-being of the American people in an increasingly complex, globalized environment. FDA ensures the safety, effectiveness, and security of human and animal drugs, biological products, and medical devices; ensures the safety of food and feed, cosmetics, and radiation emitting products; and regulates tobacco products.

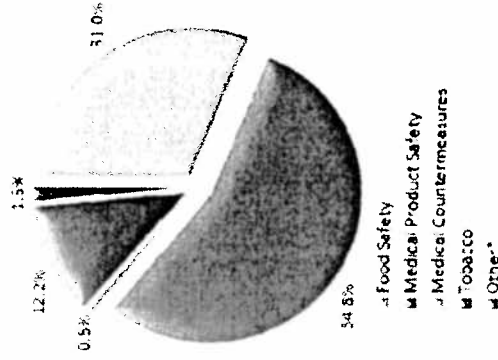
BUDGET HIGHLIGHTS

- \$4.9 billion (\$2.7B BA / \$2.2B UF), which is a \$424.8 million (9%) increase above FY 2015
- Includes \$147.7 million (6%) increase in budget authority and \$277.2 million (15%) increase in user fees

RENT & FACILITIES

- Support modern facilities to provide the laboratories and office space needed to meet FDA's expanded legislative mandates
- Program Level: \$430.8M (\$313.9M BA / \$116.9M UF)
- Net Increase: \$38.9M (10%) above FY 2015
- Budget Authority: \$29.0M investment to support.
 - * White Oak Master Plan Update: +\$5.0M
 - * GSA Rent and Other Rent & Rent Related: +\$24.0M
 - These rent amounts are covered above in terms of Food Safety and Medical Product Safety.

FY 2016 MAJOR ACTIVITIES



*Includes: Other GSA Rent, Other Rent and Rent Related, Other GSA Buildings, and Facilities, Other Facilities, and Food, Cosmetic, and Tobacco.

Greater Colesville Citizens Association
PO Box 4087
Colesville, MD 20914
March 15, 2015

Montgomery County Council
Planning, Housing, and Economic Development Committee
Attn: Councilmember Nancy Floreen, Chair
100 Maryland Ave
Rockville, MD 20850

Montgomery County Planning Board
Attn: Casey Anderson, Chair
8787 Georgia Ave
Silver Spring, MD 20910

Re Subdivision Staging Policy Amendment 14-02.

Dear PHED Committee Member and Planning Board Member:

The Greater Colesville Citizens Association (GCCA) supports the Subdivision Staging Policy (SSP) Amendment 14-02 change proposed by the Planning Board Chairman last fall. We also support the refined change from Councilmember Floreen as recorded in the Glenn Orlin memo of February 5, 2015. We however think additional changes are needed as identified below. We furthermore don't want to delay the County's effort to finalize the General Development Agreement (GDA) with Percontee for Site II and Life Science Village. Therefore, it may be better to consider these additional changes during the regularly scheduled update to the SSP rather than as part of this amendment.

GCCA and a majority of the citizens in eastern Montgomery County want economic development to occur now as defined in the White Oak Science Gateway Master Plan (WOSG MP) and these additional SSP changes support that goal. Development has passed our part of the county by for the last 30 years and as a result we have been negatively impacted. We now have a window of opportunity with business changes being driven by the Food and Drug Administration (FDA) and the partnership between the County and Percontee to build the Life Science Village. If we don't act now, I fear the development will just go to Prince George's County and Konterra. Montgomery County will lose in two ways: loss of tax revenue needed to pay for desired services and increased traffic because people will need to drive further and the Life Science Center will not be a destination for removing traffic from US29.

In addition, GCCA and a majority of citizens in eastern Montgomery County don't want increased road congestion. To us, the approved Transit Master Plan with its 10 Bus Rapid Transit (BRT) corridors and related restructure of local bus service will keep congestion from getting worse and we think reduce it, even with all the proposed development. The Corridor Advisory Committee (CAC) for US29 has gotten underway and the results are projected to be available in the summer of 2016.

For 25 years I have been participating in processes dealing with the adequacy of public facilities. These processes have largely been attempting to pace development. More significant changes are needed since this basic approach has not worked. Albert Einstein said that "Insanity is doing the same thing over and over again and expecting different results." We have been doing the same thing over and over and expecting different results. A more radical change is needed. Approval of the two master plans

constitutes two of the needed changes. In addition, changes are needed to the SSP as defined below and a method of funding BRT is needed. We believe that if the Planning Board and Council continue to make the needed changes that BRT will be operational on US29 within four years, which is more or less when the first phases of the Life Science Village will be occupied and when the new Adventist Hospital will open.

The revised SSP process would:

1. Allow economic development to proceed. Our current process slows economic development and hinders it so much that it is all too often taken elsewhere. Developers need to be assured they can get through the process in a timely manner. The economic development will provide jobs which then lead to increased tax revenue. The tax revenue is needed to limit taxes on residents and to provide funds for the many services we want.
2. Apply only where there are major transit corridors, either existing or expected within the next six or so years. The major transit corridors are Metrorail, Purple Line, CCT, and BRT corridors under study.
3. Provide an economic incentive for developers and property owners to encourage employees to use non-auto driver mode forms of travel – transit, walk, bike, car-pool, telework etc. Non-auto drive mode share (NADMS) goals should be placed on all new non-residential development. NADMS goals could be applied to residential development if a process can be developed to regulate it. The idea is to apply non-residential NADMS goals for a long period of time, say 30 years. An annual fee would be charged based upon the level of NADMS achieved. Each Master Plan (or SSP) would establish a NADMS goal. If that goal is not met based upon reports and measurements every year or two, the fee would increase. If the goal is exceeded by a significant amount (say 20% or 40%), then the fee would be reduced. Attached is a possible regulatory framework for addressing these NADMS concepts
4. Would be modified to implement a pay and go method. The new process would combine four current transportation payments or costs: LATR, TPAR, Impact Tax and traffic studies (see below). Since the NADMS fee would apply for a long time, the upfront charge would need to be reduced so as not to increase the total cost to the developer, as adjusted by the time value on money. The upfront funds would be used to provide capital funding while annual fees would be used to help pay for the operating expenses. By spreading out the cost to the developer, his upfront borrowing cost would be lower. This lower upfront cost should mean that the recurring cost to the eventual property owner would be less. This lower cost would then allow the NADMS fee to be charged without increasing the overall leasing cost.
5. Would eliminate the traffic studies now undertaken by developers for off-site conditions. Except for roads, few changes in a county-developed plan would be undertaken, even for large projects. Even for roads where turn-lanes and the like would be justified, those decisions would better be undertaken comprehensively and then only when sufficient development had been approved or traffic conditions justified them. It doesn't make sense to require small developers to undertake the studies since the results rarely show any changes are justified. Why require developers to spend money to pay for studies and the county to expend resources to review study results?
 - The developer would still be required to address on-site traffic and off-site access required to reach the nearby major road(s). In White Oak, for example, access to Cherry Hill Road and US29 would be the responsibility of Percontee. The state and county would be responsible for major roads and transit. In White Oak, that would include US29 interchanges, Old Columbia Pike and BRT.

- The county would use the funds collected in item 4 to design and construct any local road improvements as well as sidewalk, bike and incremental local bus improvements. Any extra funds would be used to help pay for BRT. As time progresses and more and more people use more non-auto drive forms of transportation, less and less changes to the local roads will be needed.
- The County would normally undertake studies of local transportation to identify needed changes and then only when traffic conditions warrant or when enough new development had been approved. Normally, the studies would be based upon plans the Planning Board had approved. The study for the White Oak Life Science Village activity center could be done concurrent with developing the plan for the Village if done by the Percontee/County partnership – both the development plan and local off-site transportation plan would be developed together by the same team. We understand Montgomery County Department of Transportation is developing a cost estimate for use with the GDA but we are concerned that it will include more change than actually is needed. A study should be undertaken after the GDA is approved, and it should assume different levels of NADMS to determine how much road changes are needed.
- We envision the studies and construction efforts would be submitted to the Council as CIP projects and once approved, acted upon in the next fiscal year. To minimize impact on existing residents and employees, these efforts need to be undertaken quickly. Hopefully, the funds collected will be sufficient to pay for the studies and improvements. We agree that until this process can get going, county funds will be needed.

Many people feel that our roads are congested, we have too much pollution, and substantial changes are needed to address global warming. We hear many people wanting to continue to use the existing processes, which is the logic that they know for addressing these problems. Einstein also said that “logic will get you from A to B while Imagination will take you everywhere.” Imagination is needed with the changes proposed. We need to move beyond the current SSP processes. The proposal put forth above is not perfect. Discussion and resulting refinement will improve it. Even then, we will find aspects of it that will need to be adjusted, once it is implemented. Changes can always be made based upon lessons learned. We encourage you to support and approve this new approach.

Sincerely

Daniel L. Wilhelm
GCCA President

Attachment 1. Possible Regulatory Framework for NADMS

1. Applicability

This proposal would apply to proposed development within 2.5 miles of the major transit corridors (or maybe stations). This distance is too far for walking but it is envisioned that local buses will operate in this area as local feeder buses.

2. Non- Auto Driver Mode Share (NADMS) and Rate Schedules

The County is largely built out and as a result it is hard to build new roads or widen existing roads since the cost of acquiring the right-of-way would be prohibitively expensive and raise controversy among existing residents/businesses. It is possible to widen a few select roads and make limited intersection improvements but such measures will not come close to addressing existing road congestion or providing the people moving capacity needed to support future development. *That leaves major transit as the only real solution.* Of the major transit options, BRT is the most cost effective and will disrupt existing communities the least. The proposed BRT will make extensive use of existing roads and rights-of-way and only small amounts of land will be taken in select areas.

To address existing congestion and to be able to move people associated with new development, public transit must be provided and people must be encouraged to use it. To be most effective, programs are needed to encourage use of transit. The goal is to increase the NADMS. In office, industrial and retail areas, the developer and businesses who occupy the new development are the best ones to encourage their employees to use BRT, telework, car-pool and other non-auto modes. Measures are also available to encourage people in residential areas to use transit.

Only a few master plans presently have a NADMS goal. Where such a goal doesn't exist, the proposal is to use the White Oak Science Gateway (WOSG) Master Plan (MP) goals – 25% for small developments and 30% for larger development as the default. Where a master plan has a higher NADMS goal, fee schedules would be developed for them.

Transit by its very nature rarely completely pays for itself. Thus there is a capital cost component to build the capability and an operational cost component. The proposed alternative would substantially lower the existing up-front fee and add an annual fee that would run for an extended period of time – say 30 years.

In the past, some developers have been unable to meet their NADMS goal. The proposed way to address this situation is to charge higher rates if they don't achieve their goal. On the other hand, if a developer or business is able to exceed their goal, they should be provided an incentive to do so by using a lower rate.

A series of rate schedules is proposed to address the above situations. Table 2 is the upfront fee schedule which would be split so that half is collected at the time the building permit is issued and the other half when the use and occupancy permit is issued. Table 3 is the annual recurring tax that would be collected on the tax bill. The up-front cost would be based upon the cost to the developer to

construct and occupy the project. The annual cost would be based upon the assessed value and so would be adjusted every three years with each new assessment.

Table 2. Up-Front Fee (based upon cost of the development)

Development Type	Schedule 1 (meet NADMS) 25% or 30%	Schedule 2 (Fail to meet NADMS) <24% or <28%	Schedule 3 (Exceed NADMS by >25%) >31% or >37%	Schedule 3 (Exceed NADMS by >50%) >37% or >45%
General Office	A*cost	1.5*schedule 1	0.9*schedule 1	0.8*schedule 1
Industrial	B*cost	1.5*schedule 1	0.9*schedule 1	0.8*schedule 1
Retail	C*cost	1.5*schedule 1	0.9*schedule 1	0.8*schedule 1
Labs	D*cost	1.5*schedule 1	0.9*schedule 1	0.8*schedule 1
Single Family Detached	E*cost	1.5*schedule 1	0.9*schedule 1	0.8*schedule 1
Single Family Attached	F*cost	1.5*schedule 1	0.9*schedule 1	0.8*schedule 1
Multi-family (<5 stories Without structured parking)	G*cost	1.5*schedule 1	0.9*schedule 1	0.8*schedule 1
High Rise (≥5 stories with structured parking)	H*cost	1.5*schedule 1	0.9*schedule 1	0.8*schedule 1

Exempt from the above: Gov't, education facilities (colleges and private schools) for students but not employees, hospitals for patients but not for employees, affordable housing, and places of worship

Table 3 Annual Fee (based upon the assessed value)

Development Type	Schedule 4 (meet NADMS) 25% or 30%	Schedule 5 (Fail to meet NADMS) <24% or <28%	Schedule 6 (Exceed NADMS by >25%) >31% or >37%	Schedule 7 (Exceed NADMS by >50%) >37% or >45%
General Office	M*Value	1.5*Schedule 4	0.9*Schedule 4	0.8*Schedule 4
Industrial	N* Value	1.5*Schedule 4	0.9*Schedule 4	0.8*Schedule 4
Retail	P* Value	1.5*Schedule 4	0.9*Schedule 4	0.8*Schedule 4
Labs	Q *Value	1.5*Schedule 4	0.9*Schedule 4	0.8*Schedule 4
Single Family Detached	R *Value	1.5*Schedule 4	0.9*Schedule 4	0.8*Schedule 4
Single Family Attached	S* Value	1.5*Schedule 4	0.9*Schedule 4	0.8*Schedule 4
Multi-family (<5 stories Without structured parking)	T* Value	1.5*Schedule 4	0.9*Schedule 4	0.8*Schedule 4
High Rise (≥5 stories with structured parking)	U*Value	1.5*Schedule 4	0.9*Schedule 4	0.8*Schedule 4

Exempt from the above: Gov't, education facilities (colleges and private schools) for students but not employees, hospitals for patients but not for employees, affordable housing, and places of worship

Table 2 is set up to handle multiple-phased projects. For a single-phased project, Schedule 1 would apply and the NADMS goal needs to be achieved at the end of the project. If that goal is achieved, then Schedule 4 (Table 3) would apply for the recurring changes. If the NADMS goal is not meet, then Schedule 5 would apply. If the NADMS goal is exceeded by 25% or 50%, then Schedules 6 or 7 would apply. The annual recurring schedule would be adjusted based upon annual or biannual NADMS measurements.

During the build-out of a multi-phased project, the NADMS goals will be phased in as shown in Table 4. The phases will need to be divided into approximately equal sizes. The degree to which the NADMS goal for each phase is achieved will affect the upfront payment for the next phase based upon Table 2. Once buildings within a phase receive a use and occupancy permit, the annual payment will start a year later. The decision of which Table 3 schedule to use before final build-out will be based upon the values in Table 4, not the column heading in Table 3.

Table 4 NADMS Goal Attachment for Multi-Phased Projects

<u>Phase</u>	<u>Two Phased Project</u>	<u>Three Phased Project</u>	<u>Four Phased Project</u>	<u>Five Phased Project</u>	<u>Six Phased Project</u>
<u>1</u>	<u>45%</u>	<u>30%</u>	<u>20%</u>	<u>15%</u>	<u>10%</u>
<u>2</u>	<u>100%</u>	<u>60%</u>	<u>45%</u>	<u>35%</u>	<u>26%</u>
<u>3</u>	<u>N/A</u>	<u>100%</u>	<u>75%</u>	<u>55%</u>	<u>42%</u>
<u>4</u>	<u>N/A</u>	<u>N/A</u>	<u>100%</u>	<u>75%</u>	<u>60%</u>
<u>5</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>100%</u>	<u>80%</u>
<u>6</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>100%</u>